

varsha

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16402 OF 2024

Ajit Uddhav Suryawanshi and Anr ... Petitioners

vs.

Parubai Tatoba Kadam Deceased and Ors ... Respondents

Mr. Ashutosh M. Kulkarni through Mr. Akshay A. Kulkarni for
Petitioners.

CORAM : GAURI GODSE, J.

DATED : 9th JUNE 2025

ORDER:

1. This petition is filed by the original plaintiffs to challenge the order directing the addition of respondent no.7 as a party defendant in the suit. The suit is filed for the specific performance of the agreement executed by defendant no.1.

2. Learned counsel for the petitioners submits that the added defendant claims through defendant no.1. Learned counsel for the petitioners points out the genealogy in the application filed under Order I Rule 10 of the Civil Procedure Code, 1908 ('CPC') by respondent no.7. He submits that respondent no. 7 claims to have interest in the property claiming through the original holder i.e. Nana Kadam. He submits that respondent no.7 has already executed the agreement confirming the suit agreement in favour of the plaintiff.

He submits that at the time of trial, a frivolous application is filed raising different contentions on the ground that she has her independent rights. He therefore submits that the application is filed only to protract the litigation.

3. I have perused the papers of the petition. The impugned order is an interlocutory order. Hence, in view of Section 105 of the CPC, it would be always open for the petitioner to challenge the impugned order in the appeal, if the final decree is against the petitioner. Hence, I do not find that this is a fit case to exercise writ jurisdiction under Article 227 of the Constitution of India.

4. The remedy under Section 105 of the CPC is kept open.

5. Writ Petition is disposed of in the aforesaid terms.

(GAURI GODSE, J.)