VARSHA VIJAY RAJGURU
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 773 OF 2023
WITH
INTERIM APPLICATION NO. 15508 OF 2023
WITH
WRIT PETITION NO. 15419 OF 2023

Ashok Motilal Katariya and Ors … Appellants/Applicants

vs.

Parvatibai Ghamanrao Tidke(Deceased) and Ors … Respondents

Mr. Nitin Gaware Patil (through VC) a/w. Mr. Sriraj Menon, Mr. Sandesh Panchal i/b. Sriraj G. Menon, for the Applicants

Mr. Tuushar N. Sonawane, for Respondent Nos. 2, 3 and 5 in AO and Writ Petition.

Mr. Pradeep J. Thorat a/w. Mr. Aniesh S. Jadhav i/b. Ms. Aditi S. Naikare for Respondent No. 4 TDL in AO/773/2023.

CORAM : GAURI GODSE, J.

DATED : 9th DECEMBER 2025

ORDER:

1. The appeal from order is filed by defendant nos. 1 to 3 to challenge the order passed by the trial court rejecting their application under Order XXXIX Rule 11 of the Civil Procedure Code, 1908 ('**CPC**'). The writ petition is filed by defendant nos. 1 to 3 to challenge the order passed by the trial court allowing the application

of the original plaintiffs for adding respondent no.5 as party plaintiff to the suit.

2. The main grievance of defendant nos. 1 to 3 is that the original plaintiffs created third party rights in favour of the added plaintiff no.4 in breach of the order passed by the trial court directing the parties to maintain status quo. In view of the allegations made by defendant nos. 1 to 3 and the grievance made in these proceedings, the original plaintiffs and the added plaintiff agreed to file an undertaking in this court stating that they shall cancel the documents executed in breach of the order of status quo and shall also apply for deleting the name of added plaintiff no.4. They also agreed to file an undertaking that they shall maintain status quo in respect of the suit land as per the trial court's order dated 2nd January 2008, passed below Exhibit 88 in the suit. Accordingly, learned counsel for the respondents has tendered undertakings dated 5th December 2025, signed and executed by the original plaintiff nos. 2 and 3 and by added plaintiff no.4. All three undertakings are taken on record. The original plaintiff no.1 is deceased.

3. The assurances and undertakings recorded in the said affidavit-cum-undertakings dated 5th December 2025 are accepted

as undertakings to this court.

4. In view of the undertakings tendered by respondents, nothing survives for further consideration in the writ petition as well as the appeal from the order.

5. The application proposed to be filed in compliance with the undertakings, by the respondents for deleting respondent no. 5, who is added as plaintiff no.4, shall be considered by the trial court in terms of this order and accordingly pass necessary order for deleting plaintiff no.4. The appeal from the order and the writ petition are disposed of in the aforesaid terms.

6. In view of the disposal of the appeal from order and the writ petition, the pending applications are disposed of as infructuous.

(GAURI GODSE, J.)