

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10813 OF 2014

HABIBKHAN AFZALKHAN PATHAN
VERSUS
DHULE MUNICIPAL CORPORATION

.....
Advocate for Petitioner : Mr. Anand P. Bhandari
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CORAM : V. K. JADHAV, J.

DATED : 21st SEPTEMBER, 2015

P.C. :-

1. Heard Mr. Bhandari, learned counsel for the petitioner.
2. By this writ petition, the petitioner has challenged the order passed by the 7th Joint Civil Judge Junior Division, Dhule, dated 30.07.2013 below Exh. 1 in Regular Civil Suit No. 132 of 2003 whereby, the learned Judge of the trial court has re-casted the issues when the matter was finally heard and the suit was posted for judgment.
3. It appears from the impugned order that initially, though the suit is instituted simplicitor for a relief of perpetual injunction, the issue No. 2 was framed seeking a declaration about the notice of removal of encroachment alleged to have been issued by the

defendants. The learned judge of the trial court has rightly observed that in a suit for perpetual injunction, the issue of declaration of ownership cannot be determined. The learned Judge has, therefore, rightly re-casted the issue considering the matter in controversy between the parties. Needless to say that the issues can be amended, added or struck out at any time before pronouncement of judgment. I find no fault in the impugned order. The writ petition is devoid of any substance. Therefore, the writ petition is hereby dismissed. No costs.

(V. K. JADHAV, J.)

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