

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1547 OF 2015

SHRIKANT MAHADEV HAJARE

PETITIONER

VERSUS

SUJEET ANNASAHEB HAJARE AND OTHERS

RESPONDENTS

Mr.S.D.Tawshikar h/f Mr.A.R.Devkate, Advocate for the petitioner.
Mr.V.Y.Bhide h/f Mr.Shoyab Shaikh, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 03/03/2015

PER COURT :

1. The petitioner is aggrieved by the impugned order dated 30/01/2015, by which application Exh.134 in RCS No.234/2008 for framing of additional issues has been rejected.

2. I have heard the learned Advocates for the respective sides. Issues have been cast on 11/11/2010. An additional issue was cast on 01/02/2012 by order below Exh.60.

3. In application Exh.60, the petitioner/plaintiff had proposed 3 additional issues. By order dated 01/02/2012, the Trial Court framed an additional issue. By application Exh.134, those two issues which were proposed through Exh.60, have been once again

rejected by the impugned order. The order dated 01/02/2012, rejecting the same two issues as set out in Exh.134, has not been challenged.

4. In the light of the above, the Trial Court has arrived at a two-fold finding. Firstly, that application Exh.60 was already rejected to the extent of the two issues, which have been once again proposed in Exh.134. Secondly, recording of evidence has been concluded in the matter and the stage is for advancing final oral submissions. The Trial Court has concluded that the proposed two issues need not be framed as the contentions of the plaintiff and the defendants would be considered while answering issue Nos. 1 and 2.

5. The reliance placed upon the judgment of this Court dated 26/02/2013 passed in WP No.10599/2012 in the case of Maruti S/o Sayanna @ Saibu Dabbewad Vs.Saybu @ Ramrao S/o Maroti Dubbewad and others. by the petitioner is misplaced. This Court has held that the issues are to be framed after considering the rival pleadings and the documents on record. In the said case, this Court came to a conclusion that the additional issues proposed were relevant in the facts of the said case.

6. In the instant case, when the proposed issues are already framed in different words in issue Nos. 1 and 2 by the Trial Court, application Exh.60 and 134 have been rightly rejected.

7. In the light of the above and in view of the observations of the Trial Court in the order dated 30/01/2015, no interference is called for in this petition and the same is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)