

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 2817 OF 2015

Rajan Madhukar Shelke and anr.		Petitioners
VS		
Ravindra Keshav Shelke and ors.		Respondents

Mr. H.T. Joshi, Advocate holding for Mr. Y. P. Deshmukh, Advocate
for petitioners
Mr. Z.M. Pathan, Advocate for respondents no.22 to 25.

CORAM : SUNIL P. DESHMUKH, J.
21ST JULY, 2015

ORDER:

1. After hearing parties, the position emerges that, petitioners apprehend that the observations as are appearing in paragraphs no. 7,8,9 and 10 of the order impugned, may pre-empt findings on the issues being framed as preliminary issues, for, according to learned counsel for petitioners, the order tends to pre-judge the issues without letting opportunity to the petitioners to adduce evidence.

2. Learned counsel for respondents fairly submits that such an apprehension may not be entertained by petitioners, for, issues have been framed and those will have to be decided on the basis of evidence adduced on either side. According to learned counsel, observations in the impugned order referred to by petitioners have been recorded for the purpose of framing and treating the issues as preliminary issues. The observations have no efficacy beyond the

same and shall not interlude the findings being given on merits and evidence with regard to the issues framed.

3. Having considered aforesaid submissions, it is made clear that observations as are appearing in paragraphs no. 7, 8, 9 and 10 in the order impugned which have weighed for framing issues and treating those as preliminary issues, would not and shall not have any bearing on the findings being recorded on said issues. The findings and decisions on the issues shall solely rest on the evidence being adduced by the parties as well as on consideration of contentions in respect of the same, including letting an opportunity to the parties to address themselves afresh on the considerations which have weighed with the court while framing issues.

4. With observations as aforesaid, writ petition stands disposed of.

SUNIL P. DESHMUKH, J.

pnd