

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3954 OF 2014

Budha s/o Ganpat Tayade,
Age: 70 years, Occ: Agri.,
R/o. Meharun,
Tq. & Dist. Jalgaon & ors

...Petitioners

versus

Chindhu s/o Sahadu Tayade,
Age: 80 years, Occ: Agri. & Nil,
R/o. Near Kumbharwada, Maharun,
Tq. & Dist. Jalgaon & ors

...Respondents

.....
Mr. P.N. Kutti, Advocate for petitioners
Mr. V.P. Patil, Advocate Nos. 1, 17 to 27
Mr. S.H. Tripathi, Advocate for respondent Nos. 8 to 16
Mr. V.D. Gunale, Advocate for respondent No. 32
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CORAM : N.W. SAMBRE, J.

DATE : 23rd NOVEMBER, 2015

ORAL ORDER :

In a suit for partition, after closing of evidence, the petitioners-plaintiffs moved application with prayer for permission to examine additional witnesses. The said application is turned down by learned trial Court by an order dated 07/04/2014 with liberty to the petitioners to place on record examination-in-chief of the said witnesses and to produce the said witnesses before the Court on their own.

2. Mr. Kutti, learned Counsel for the petitioners would urge that even if the petitioners produce examination-in-chief of the said witnesses, it will be really difficult to produce them before this Court in absence of Court witnesses summons to that effect. He would urge that official of the Jalgaon Municipal Corporation is required to be examined in the suit for partition, which request is also not considered.

3. The above referred submissions are objected by learned Counsel for the respondents on the ground that the suit is of the year 1999 and the petitioners have already closed their evidence. According to respondents-defendants, the witnesses who are named in the application are not mentioned in the list of witnesses who are relatives of the petitioners apart from witnesses from Corporation submitted by the plaintiffs. According to him, the trial Court has already granted an opportunity to the petitioners to produce examination-in-chief of the said witnesses and to produce them for further evidence.

4. In my opinion, the order passed by learned trial Court, particularly giving opportunity to the petitioners to produce on record examination-in-chief of the witnesses, who are named in the application after closure of their evidence, is just and equitable order.

The trial Court was alive to the fact that trial is pending since 1999 and authorities who were sought to be produced as witnesses are not included in the list of witnesses. No case is made out for interference. As such, the writ petition fails, same stands dismissed.

[N.W. SAMBRE, J.]