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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.905 OF 2013

1. Sundarprasad Sureshprasad Awasthi PETITIONERS
 Age - 35 years, Occ - Military Service,
 Presnt at Jammu and Kashmir

2. Suresh Sundarprasad Awasthi
 Age - 60 years, Occ - Agriculture

3. Ramesh Sundarprasad Awasthi
 Age - 30 years, Occ- Agriculture

All R/o Harwadi, Taluka - Renapur
 District - Latur

VERSUS

1. Laxman Bansi Awasthi RESPONDENTS
 (Since Deceased)

1-A Hariprasad Laxman Awasthi
 Age - 37 years, Occ - Agriculture
 R/o Maliwada, Taluka & District- Aurangabad

2. Mangalbai Bansi Awasthi,
 Age - 52 years, Occ- Household
 R/o Harwadi, Taluka - Renapur
 District - Latur

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Mr. Suhas P. Urgunde, Advocate for the petitioners
 Mr. Mehul Nawandar, Advocate for the respondents

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 6th JULY, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with

consent of learned advocates for the parties.

2. The petition has been moved against an order dated 5th October, 2012 passed on amendment application, Exhibit-140 in Regular Civil Suit No. 15 of 2012 pending before Joint Civil Judge, Junior Division, Renapur, District - Latur.

3. Application Exhibit-140 had been moved by the plaintiffs - respondents for amendment incorporating alteration to description of property. To be precise, instead of village "Harwadi", village name is sought to be corrected as village "Mahapur". With the same, name of Taluka also undergoes change and instead of "Taluka - Renapur", "Taluka - Latur" was sought to be incorporated. Objection appears to have been taken in the written statement itself way back in 2007, by the defendants, who are present petitioners.

4. Application Exhibit-140 came to be moved in 2011 referring to that this mistake has occurred due to oversight and under inadvertence. In the initial round, it appears that the request under Exhibit-140 had been allowed by the trial court, albeit, referring to that no say has been filed and it was considered that there was no opposition to amendment. The situation was different and as such, this court had remanded the

matter by an order passed in writ petition No. 5172 of 2012 earlier on filed by present petitioners. Thereafter, the matter was reconsidered by the trial court and the court appears to have taken into account opposition of the present petitioners and has considered that there are various reasons accounting for belated approach. The court appears to have considered that the suit is for declaration of ownership and possession and that amendment sought only alters description of the property in respect of the name of place of disputed property. The court has also taken into account sale deed as well as seven twelve extracts indicating that the property is situated at village Mahapur.

5. Taking into account overall situation, the order does not appear to be without following required judicial considerations and as a matter of fact, it augments and furthers the cause of justice instead of getting entangled into technicalities. I am, therefore, not inclined to interfere with the order impugned. However, since a bit of inconvenience appears to have been caused to the defendants - petitioners, the same can be taken care of by awarding costs.

6. In view of aforesaid, writ petition stands dismissed. Rule stands discharged. The petitioners would be entitled to receive a

sum of Rs.2500/- as and by way of costs from the plaintiff - respondents. The amount of costs, referred to hereinabove, shall be deposited by the plaintiff - respondents, in the trial court within a period of four weeks from the date of receipt of writ of this order. Learned advocate for the petitioners further makes a grievance that the amount of costs of Rs.400/- awarded by the trial court, has not yet been deposited by the plaintiff - respondents. In such a case, if the amount of Rs.400/- as is contended by learned advocate for the petitioners is not yet deposited, the aggregate amount of Rs.2,900/- be deposited by the plaintiff - respondents in the trial court within the period, referred to hereinabove. Looking at that the suit is pending since 2007, it may be taken up for expeditious disposal.

[SUNIL P. DESHMUKH, J.]