

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

WRIT PETITION NO. 10738 OF 2014

Ajay s/o Prakash Ghodke and ors. Petitioners
vs
Gajarabai Kisan Ghodke and ors. Respondents

Mrs. Manjusha S. Jagtap, Advocate for petitioners
Mr. S.S. Kulkarni, Advocate for respondents no.1 to 3

CORAM : SUNIL P. DESHMUKH, J.
DATE : 23RD JUNE, 2015

ORDER

1. This petition has been moved against an order dated 08-11-2014 whereunder Joint Civil Judge, Junior Division, Shrigonda, has rejected request of the petitioners under Exhibit-67 to consolidate two suits, viz. regular civil suit no. 16 of 2012 and regular civil suit no. 16 of 2014.

2. Regular civil suit no.16 of 2012 had been instituted by present respondents no. 1 to 3 seeking partition and separate possession of the properties in the suit comprising properties lands gut no. 1592 and 2063 to the extent of 79 aar and 2 hectare, 51 aar respectively initially against present petitioners. Said suit had been instituted among the family members and subsequently, present respondent no. 4 came to be added as defendant no. 6. The suit has reached evidenciary stage.

3. It appears, regular civil suit no. 16 of 2014 has been instituted by present respondent no. 6, seeking specific performance of agreement in respect of part of gut no. 1592. In said suit, original parties to regular civil suit no. 16 of 2012 are defendants. Regular civil suit no. 16 of 2014, it appears, is yet not ripe for hearing and is pending as quite a few defendants in the suit are yet to be served and even pleadings are yet to be completed.

4. Taking stock of the situation, the trial court, while deciding application at Exhibit-67 which was filed pursuant to the liberty granted by this court in writ petition no. 8059 of 2014, has considered relevant aspects and declined to accede to the request of the petitioners.

5. Learned counsel for the petitioners has placed reliance on the judgments in the cases of *Mahalaxmi Co-operative Housing Society Limited vs. Ashabhai Atmaram Patel and others*, AIR 2013 SC 961 and *Sanjeev vs. Rupal*, 2010 (1) Mh.L.J. 918. However, looking at the facts involved in said cases and the general principles referred to therein, those may not hold present scenario.

6. Under impugned order, discretion has been exercised by the trial court in adherence to judicial aspects normally required to be looked into and followed. This is not a fit case to be interfered with.

7. Writ petition as such, stands rejected.

SUNIL P. DESHMUKH, J.

pnd