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

WRIT PETITION NO.12214 OF 2015

1. Hemlata W/o. Bhagwan Wakharkar,
Age: 54 years, Occu: Agri.,
R/o. Aundha Nagnath, Tq. Aundha,
Dist. Hingoli
2. Virendra S/o. Bhagwan Wakharkar,
Age: 29 years, Occu: Education,
R/o. Aundha Nagnath, Tq. Aundha,
Dist. Hingoli
3. Monika D/o. Bhagwan Wakharkar,
Age: 24 years, Occu: Education,
R/o. Aundha Nagnath, Tq. Aundha,
Dist. Hingoli
4. Tarun S/o. Bhagwan Wakharkar,
Age: 20 years, Occu: Education,
R/o. Aundha Nagnath, Tq. Aundha,
Dist. Hingoli

...PETITIONERS
(Orig. Defts.)

VERSUS

Gajanan S/o. Laxmanrao Wakharkar,
Age: 37 years, Occu: Agri.,
R/o. Aundha Nagnath, Tq. Aundha,
Dist. Hingoli

...RESPONDENT
(Orig. Plaintiff)

Mr S. D. Tare, Advocate for petitioners;
Mr S. J. Salunke, Advocate for respondent

CORAM : N.W. SAMBRE, J.
DATE : 17th December, 2015

ORAL ORDER :

By the present petition, petitioners-original defendants have challenged the order dated 5th November, 2015, passed by Civil Judge Junior Division, Aundha, below Exh.98, in Regular Civil Suit No.63 of 2012,

(2)

whereby their prayer for setting aside “no cross-examination” order has been rejected.

2. The respondent-plaintiff has instituted the suit for specific performance of contract and perpetual injunction. In the said suit, petitioners-defendants moved application Exh.98 for setting aside “no cross-examination” order, which came to be rejected by the order impugned.

3. Learned Counsel appearing on behalf of the petitioners would urge that petitioner no.1 is a widow and was required to stay at Pune, which has resulted into non-compliance of the earlier order passed by the learned Trial Court. According to the learned Counsel, last chance be granted to the petitioners and on the date so fixed by the Trial Court, they will proceed with the cross-examination.

4. Learned Counsel appearing on behalf of the respondent-plaintiff strenuously opposed the claim, as according to him, no equity should be weighed in favour of the petitioners, as during the trial their conduct remained dishonest and they have no respect for the court proceedings. Learned Counsel has invited my attention to the various chances granted by the Trial Court to the petitioners.

5. Upon considering the rival submissions, in my opinion, in the interest of justice, it will be appropriate to grant last chance to the

(3)

petitioners, to cross-examine the plaintiff, subject to deposit of costs of Rs.10,000/- before the Trial Court, within a period of three weeks from today. If the amount of costs is deposited, then only the order granting permission to the petitioners to cross-examine the plaintiff will operate. If the petitioners fail to comply with the condition of deposit of costs, it be treated that their request for cross-examination is rejected. On deposit of costs, respondent-plaintiff is permitted to withdraw the same.

Writ Petition stands disposed of with above observations and directions.

(N.W. SAMBRE, J.)

amj