

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11206 OF 2015

Shri Vishal Balaso Lavhe and Ors.] ... Petitioners

Versus

Grampanchayat Baburdi, Through Sarpanch]
Shri Kiran Gulabrao Jagtap and Ors.] ... Respondents

Mr. Bhalchandra Shinde for Petitioners.
Ms. Savita Prabhune for Respondent Nos.1 to 5.
Mrs. Vaishali Nimbalkar, A.G.P., for Respondent No.6.

CORAM :- M. S. SONAK, J.
DATE :- DECEMBER 02, 2015

P. C. :-

1. Rule.
2. With the consent of and at the request of learned Counsel for parties, Rule is made returnable forthwith.
3. The challenge in this petition is to the order dated 13/10/2015 by which the Mamlatdar has denied the petitioners liberty to examine any witnesses or to issue any witness summons to certain witnesses.

4. The learned Counsel for respondent nos.1 to 5, who are the applicants before the Mamlatdar, points out that the very application made by the petitioners was pre-mature because the respondent nos.1 to 5 are yet to lead evidence before the Mamlatdar. This submission is correct. After the respondent nos.1 to 5 have concluded their evidence, it is always permissible for the petitioners herein to apply for leave to examine witnesses or for the issuance of witnesses summons. Such application, is required to be considered by the Mamlatdar on its own merits and in accordance with law at that stage.

5. Accordingly, the impugned order dated 13/10/2015 is set aside. Further, the petitioners' application dated 13/10/2015 is also dismissed as being pre-mature. Upon conclusion of the evidence of respondent nos.1 to 5, however, the petitioners shall be entitled to file a fresh application and the same will be considered by the Mamlatdar in accordance with law and on its own merits.

6. The proceedings before the Mamlatdar are expedited. The Mamlatdar to endeavour to dispose of the same within a period of four months from today. All the parties are directed to cooperate with the Mamlatdar in the matter of expeditious disposal of the proceedings.

7. It is made clear this this Court has not examined the merits of the matter.

8. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

9. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)