

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 149 OF 2016

Smt. Indrabai w/o Baburao Jadhav,
Age : 72 years, Occu. : Agril.,
R/o Digol (E), Tq. Sonpeth,
District Parbhani

.. Petitioner
(Orig. Plaintiff)

Vs.

Gopinath S/o Maroti Jadhav,
Age : 70 years, Occu.: Agril.,
R/o Digol (E), Tq. Sonpeth,
District Parbhani

.. Respondent
(Orig. Defendant)

Mr. M.P. Kale, Advocate for the petitioner
MR. S.V. Warad, Advocate for the respondent/sole

CORAM : SUNIL P. DESHMUKH, J.
DATE : 28-04-2016

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally with consent of the parties.

2. Looking at the state-of-affairs prevailing in the suit that no written statement order has been passed against the defendant and an application has been moved for setting aside the same, which is pending, and further having regard to that care has been taken while passing the impugned order by the court, granting liberty to the petitioner to move an application for calling witness on proper

ground, having regard to the state-of-affairs aforestated, it is not a case wherein at this stage, the discretion should be exercised in favour of the petitioner. As such the petition is not being entertained and is rejected, keeping the rights of the plaintiff open for making an application again for the purpose for which the earlier application had been moved.

3. Rule stands discharged. Interim relief granted earlier stands vacated.

**[SUNIL P. DESHMUKH]
JUDGE**

arp/