

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

WRIT PETITION NO. 4004 OF 2016

1. Shreerang s/o Pandurang Shelke
Age: 55 years, occu- Business,
R/o: Now C- 111, Vishal Enterprises,
MIDC, More Chowk, Waluj,
Tq. & Dist. Aurangabad.
2. Pandurang S/o Ganpat Shelke,
Age- 70 years, Occu- Agri.
R/o Nandur, Shingote
Tq. Sinner, Dist. Nashik.
3. Bhagubai w/o Pandurang Shelke,
Age- 60 years, Occu- Household
R/o Nandur Shingote,
Tq. Sinner Dist. Nashik.
4. Tarabai W/o Laxman Kakad,
Age-33years Occu- Agril
R/o Gunwanch Ta. Sinnar,
Dist. Nashik.
5. Subhadrabai W/o Bhausahab Chakor,
Age- 33 years, Occu.-Agril.
R/o Pimple Tq. Sangamner,
Dist. Ahmednagar.

...PETITIONER
(Original Plaintiffs)

Versus

Maroti S/o pandurang Shelke,
Age: 60 years, Occu. Business,
R/o Wardhman Apartment, Flat No. 3
Sangmner, Dist. Ahmednagar.

...RESPONDENT
(Original Defendant)

.....
Mr. S.D. Hivrekar, Advocate for petitioner
Mr. R.K. Jadhavar, Advocate for sole respondent
.....

CORAM : K.K. SONAWANE, J.

DATED : 21st OCTOBER, 2016.

Order :-

1. The petitioners-original plaintiffs assail order dated 30-07-2015 below Exhibit-1, in Regular Civil Suit No. 1152 of 2013 passed by learned 2nd Joint Civil Judge, Senior Division, Aurangabad whereunder learned Judge has framed preliminary issues before proceeding to decide the application for temporary injunction.
2. Heard learned counsel for the parties. I have delved into relevant documents produced on record.
3. On perusal of impugned order, it appears that learned trial court has arrived at conclusion that plaintiffs did not calculate the value of the property in proper manner. In case suit property is valued more than pecuniary jurisdiction of learned trial court, it would cause impediment to entertain the suit. Therefore, learned trial court proceeded to frame preliminary issues and directions were issued to the concerned parties to lead evidence in regard to valuation of the suit property.
4. On intense scrutiny of the findings recorded by the learned trial court for framing preliminary issues, it appears that learned trial court is justified in framing the preliminary issues and within purview of law. Determination of value of the contentious property in suit would be legal issue for maintainability of the same and pecuniary jurisdiction of the court. I do not find any error in impugned order passed by the

learned trial Court. However, considering the nature of the proceeding I find it justifiable to issue directions to the learned trial court to decide preliminary issues framed on the point of value of the suit within stipulated period which would facilitate to resolve the dispute in regard to jurisdiction of concerned court.

5. Learned counsel for petitioners and respondent also fairly conceded for the same. Therefore, I find it justifiable to issue directions to learned trial court to adjudicate preliminary issues framed under the impugned order dated 30-07-2016, as early as possible, preferably within a period of two months from today. It is stipulated that till legal issues are decided on merits by the learned trial court, the parties to maintain *status-quo*. It is also directed to both the parties to co-operate learned trial court for expeditious disposal of the hearing on preliminary issues.

6. With directions as above, writ petition stands disposed of. There shall be no order as to costs.

Sd/-

[K. K. SONAWANE, J.]

MTK