

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

WRIT PETITION NO. 5971 OF 2016

Prakash s/o Laxman Wagh and another .. Petitioners

vs

The State of Maharashtra and others .. Respondents

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Mr. Rahul R. Karpe, Advocate for petitioners

Mr. B. A. Shinde, Asstt. Govt. Pleader for respondents no.1 to 4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 14th June, 2016

ORDER :

1. Heard learned counsel for petitioners.
2. Petitioners – original plaintiffs are before this court, purporting to be aggrieved by order dated 14-01-2016 passed by Civil Judge, Senior Division, Kopergaon, on Exhibit-59, which is the same and similar as in respect of applications at Exhibits- 62 and 69 in regular civil suit no. 24 of 2013. Exhibits 59, 62 and 69 are filed by third parties who are not parties to said suit.
3. Learned counsel for petitioners submits that the petitioners are *dominus litis* claiming property concerned through their grand father who is original lessor and pursuant to amendment to Maharashtra Ceiling Act , according to him, plaintiffs alone would be entitled to property concerned pursuant to the provisions of law or

even under the personal law. The third parties have no concern with suit property. He, therefore, submits that granting of applications Exhibits – 59, 62 and 63 referred to above moved by third parties in the suit filed by present petitioners, is untenable.

4. Upon perusal of impugned order, it appears that in exercise of powers under Order I, rule 10 of the Code of Civil Procedure, 1908, the orders have been passed by trial court after taking stock of the contentions of the third parties that they also purport to claim the property through transactions from grand father in favour of their predecessor. The court as such thought impleading of third parties to suit as appropriate for complete and effectual disposal of the *lis* involved in the suit.

5. Since the order passed by trial court is discretionary and exercise of discretion does not appear to be in breach of judicial principles which may have called for interference under discretionary powers of this court. It is difficult to accede to the request being made by learned counsel for petitioners.

6. Writ petition, as such, is not being entertained and is rejected.

SUNIL P. DESHMUKH,
JUDGE

pnd