

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

WRIT PETITION NO. 2829 OF 2016

Vithal s/o Gangadhar Bandewar & Anr. ... Petitioners

VERSUS

Gangadhar s/o Dattatraya Bandewar & Ors. ... Respondents

.....
Mr Gajanan G. Kadam, Advocate for the petitioners
Mr V. V. Bhavthankar, Advocate for respondent No. 1
.....

CORAM : **SUNIL P. DESHMUKH, J.**
DATE : **5TH JULY, 2016.**

PER COURT:

1. Heard learned counsel for the parties.
2. Petitioners-original defendants No. 1 and 4, aggrieved by order dt. 20.02.2016 passed by 2nd Jt. Civil Judge Senior Division, Nanded on Exh. 55 in SCS No. 33/2014, where-under help of one Mrs. Swapana P. Gandewar is allowed to be taken for recording evidence of the plaintiff, are before this Court. Petitioners object to said name for the reason that, she happens to be daughter of one of the defendants and consider her to be interested whereas, the submission of the other side is that, her name has been taken for help in recording the evidence for she is acquainted with the speech

of the plaintiff. Since the petitioners have their own doubts, it appears that they are before this Court objecting to such help being taken from her.

3. During the course of hearing before this Court, learned Counsel Mr. Kadam has suggested name of relative of the parties namely, one Mr. Purshottam Bhagwan Bachchewar for taking help in recording evidence.

4. Learned counsel Mr. Bhavthankar has no particular objection to said Mr. Bachchewar's help in recording evidence. He only apprehends that, since Mr. Bachchewar may not be as much accustomed to the speech of the plaintiff and there may be some difficulties developing due to this.

5. In such a case, that situation can be taken care of if Mr Bachchewar is not in a position to help recording of evidence at certain instances, the trial Court may ask Mrs. Swapana P. Gandewar to assist Mr. Bachchewar in recording the evidence. This, however, would be at the sole discretion of the Court. Having regard to aforesaid, nothing survives in the matter.

6. The impugned order, as such, shall be deemed to have been modified in aforesaid terms. The writ petition accordingly stands disposed of.

7. At this stage, learned counsel for the petitioner apprehends that, some intervening circumstances with regard to continuation of interim relief may cause unnecessary harassment to the petitioners. However, it appears that, under order dated 20.02.2016, the position has been made amply clear particularly in paragraph no. 3 of the same.

8. Having regard to the time consumed by this petition, the period for disposal of the suit shall be deemed to have been extended by a further period of six months from today.

[SUNIL P. DESHMUKH]
JUDGE

sgp