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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5633 OF 2016

Charushila Udhav Kamble

PETITIONER

VERSUS

Satvashila Jalindhar Surwase & Another

RESPONDENTS

.....
Mrs. Madhaveshwari D. Thube-Mhase, Advocate for petitioner
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 20th JUNE, 2016

ORDER :

1. Heard learned advocate for the petitioner. Learned advocate earnestly requests the court to consider request for recasting issues under application Exhibit-312 in Regular Civil Suit No.302 of 2007.

2. Perusal of the impugned order shows that the issues were cast on 3rd December, 2011. Learned judge has observed that issue No.3, which is sought to be recast, had been with reference to the pleadings of the plaintiff and further that it has remained after casting as it is for about four years. Learned judge has further observed that the application has been moved after evidence had been over and when the matter has reached

the stage of arguments. Learned judge as such, found it difficult to accede to the request being made for recasting of the issue.

3. The reasons, as are appearing in the impugned order are with reference to relevant considerations at this stage. As such, no interference appears to have been called for in the impugned order, although learned advocate for the petitioner refers to Order XIV, Rules 2 and 5 of the Civil Procedure Code. If the petitioner feels aggrieved by rejection of the application, it would be open for the petitioner to take recourse to section 105 of the Civil Procedure Code, if it comes to be taken in the further proceedings.

4. As such, no indulgence is being given in the present stage of the suit. Writ petition is, therefore, rejected.

[SUNIL P. DESHMUKH, J.]