

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

WRIT PETITION NO. 3312 OF 2016

Sonaba Bapuji Satwadhar

...PETITIONER

versus

Anna Nebaji Satwadhar

deceased through L.Rs.

Dnyanoba Anna Satwadhar and others

...RESPONDENTS

Mr. Subash D. Tare, Advocate for

.....

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 22nd MARCH, 2016.

Order :-

1. Heard learned counsel for the petitioner.
2. This petition has been moved by original defendant No. 1A, aggrieved by order dated 20-02-2016 on application Exhibit-417 in regular civil suit no. 05 of 2012 (renumbered) (originally the suit has been instituted in 1971 bearing special civil suit no. 54 of 1971). The issues have been framed in 1973. Application Exhibit-417 has been moved for framing additional issues, as to whether defendant No. 1 is owner of half of agricultural land, and whether he is entitled to possession of the same?.
3. The court after having considered that issues were framed initially on 19-06-1973, again on 15-07-2010 issues were added and thereafter on 12-09-2014 and 19-09-2015 further additional issues

were framed. Evidence of the plaintiffs in the suit is over and it was pending for defenants' evidence. It is at this stage application Exhibit-417 has been moved. The court having regard to aforesaid has rejected the request.

4. Learned counsel further states that contents of the written statement are sufficient to give rise the issue as desired by defendants. It *prima facie* appears to be a case wherein primary burden is on the plaintiffs to prove their case. It is for the court, if at all necessary to frame the issue if it deems such issue arises. Reasons for which application has been rejected can seldom be faulted with.

5. The writ petition is rejected.

Sd/-

(SUNIL P. DESHMUKH, J.)

MTK