

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6004 OF 2016

Dagdu Kisan Shete & Ors. ... Petitioners
Vs.
Yashwant Rama Shete & Ors. ... Respondent

Mr. Babanrao N. Palve, Advocate for the petitioner.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 13-06-2016.

Per Court :

1. Heard learned counsel for the petitioners. The petitioners are aggrieved by the order dated 21-04-2016, upon an application exhibit-151 in Regular Civil Suit No. 141 of 2012. It appears that the suit has been pending at least since 1996 and appears to have been re-numbered as aforesaid. The issues in the same have been framed in December, 1996.

2. Taking into account, the pendency of the suit and that the application has been sensed to have been moved by the trial court as a dilatory tactic, the court has disposed of the application by framing the issue on valuation and court fees at exhibit-43, and, as such, had considered that the matter may not be prolonged for decision on said issue.

3. Having regard to the aforesaid, albeit, learned counsel for the petitioner refers to clause of the valuation in the plaint and submits that the suit for partition and separate possession would not have been valued according to said clause and court fees is accordingly paid, which is not proper.

4. Be that at it may, it is not a case, that the contention on behalf of the defendant in respect of the valuation of suit and payment of court fee is thrown out. The petitioners as such have opportunity to agitate the grounds since an issue has been framed in this respect. It may not be lost sight of that the application for framing of issue with regard to valuation and court fees has also been filed as recently as in April, 2016.

5. In the circumstances, it does not appear to be a case wherein indulgence is required to be given to the petitioner, in the discretionary powers vested in this court. As such, the writ petition is not being entertained and is rejected.

(SUNIL P. DESHMUKH)
JUDGE