

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

88 WRIT PETITION NO. 6992 OF 2016

**YUVRAJ TRIMBAK GUND AND OTHERS
VERSUS
SARUBAI ARJUN KHAPRE**

Shri. Hrishikesh A. Joshi, Advocate, for petitioners.
Shri. A.P. Yenegure, Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 5 DECEMBER 2016

ORDER:

1) The petition is filed to challenge the order made by the learned 2nd Joint Civil Judge, Junior Division, Osmanabad on Exhibit 30 in Regular Civil Suit No.104 of 2013. Both the sides are heard.

2) The application was moved by present petitioner, defendant of the suit for seeking amendment in written statement. The suit is filed by one Sarubai for relief of partition of suit property. She claimed that father of defendant No.1 namely Trimbak was her brother and one Vasudeo was her father. Initially there was no specific denial of the relationship in written statement. By filing application at Exhibit 23 the defendant sought permission

to amend written statement. Due to this application, the amendment was allowed and in amended written statement defendants have mentioned that the plaintiff is not daughter of deceased Vasudeo. This contention, denial amounts to denial of relationship of the plaintiff with defendants. But in spite of that, one more application Exhibit 30 was moved. It can be said that this is nothing but the attempt to protract decision of the suit which is filed in the year 2013. If relationship is denied then there is no need to amend further with regard to relationship specifically between the parties. The trial Court has made observations that it is delaying tactics. This Court holds that it is not possible to interfere in the order made by the trial Court. The plaintiff is a lady who is dragged to this Court by filing present petition and so the plaintiff needs to be reimbursed. The petitioners are to pay Rs.5000/- (Rupees Five Thousand only) as cost of the present petition to the plaintiff. The amount can be recovered by using this order and by filing necessary proceeding in the trial Court. The petition is dismissed.

Sd/-
(T.V. NALAWADE, J.)

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