

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

14 WRIT PETITION NO. 9873 OF 2016

SUBHASH UTTAM AADSUL AND ANOTHER
VERSUS
DEVIDAS MAHADEV HAZARE AND ANOTHER

...
Advocate for Petitioners : Salunke V.D.

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CORAM : T.V. NALAWADE, J.
DATED : 21st November, 2016.

ORDER :

1. The petition is filed to challenge the order of closing of evidence of plaintiffs. Heard the learned counsel.

2. The suit is filed by the present petitioners for the relief of specific performance of oral agreement of sale of agricultural land and also for relief of injunction. The plaintiffs admit that the suit property was sold by plaintiffs to one Godabai and from Godabai, the property came to defendant No. 1, grandson of Godabai. The property was sold to Godabai on 19.2.1990. This property is sold by defendant No. 1 to defendant No. 2 under sale deed of 20.2.2014. It is the contention of the plaintiffs that there was oral agreement between Godabai and them and Godabai had agreed to sell the suit property to plaintiffs when the sale deed was executed in favour of Godabai.

3. The sale deed was executed in favour of Godabai in the year 1990 and then the property came to defendant No. 1, but the suit came to be filed in the year 2014. Admittedly, there is no record whatsoever with the plaintiffs to show that there was such agreement. In the past, the evidence of plaintiffs was closed as plaintiffs were not showing interest in prosecuting the matter. The said order was set aside subject to payment of cost of Rs.1,000/- by plaintiffs and after that, plaintiffs examined one of the plaintiff and one more witness. It can be said that these two witnesses must have given evidence to prove the so called oral agreement. The plaintiffs want to examine more witnesses. In the plaint also, the names of witnesses are not mentioned. If there was any oral agreement, it was necessary for plaintiffs to mention in the plaint the names of witnesses in whose presence, Godabai had agreed to sell the property plaintiffs. The absence of names of witnesses and subsequent conduct of the plaintiffs show that plaintiffs are trying to protract the things. This Court holds that it is not possible to interfere in the order made by the Trial Court. Issuing notice will be causing unnecessary harassment to the other side. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

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