

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

WRIT PETITION NO. 10882 OF 2015

1. Sunita Dnayanoba Yachawad,
Age: 46 years, Occ. Agri. & H.H.
R/o Degaon, Tq. Mukhed,
At present Dhamangaon,
Ta. Jalkot, District Latur.
2. Prashant Dnayanoba Yachawad,
Age: 18 years, Occ. Education,
R/o Degaon, Tq. Mukhed,
At present Dhamangaon,
Ta. Jalkot, District Latur.

...PETITIONERS
(Ori. Defts. No.2 & 3)

versus

1. Sagarbai Dnayanoba Yachawad,
Age: 40 years, Occ. Household
R/o Degaon, Tq. Mukhed,
District Nanded.
2. Pravin Dnayanoba Yachawad,
Age: 10 years, since minor,
Through respondent No. 1.
3. Mayuri Dnayanoba Yachawad,
Age: 8 years, since minor,
Through respondent No. 1.
4. Pratiksha Gajanan Kasle,
Age: 22 years, Occ. Household,
R/o Naigaon, Tq. Chakur,
District Latur.
5. Dnayanoba Pandharinath Yachawad,
Age: 50 years, Occ. Household
R/o Degaon, Tq. Mukhed,
District Nanded.

...RESPONDENTS
(Respdts. No.1 to 4
are original plaintiffs)

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Mr. Anand V. Patil (Indrale), Advocate for petitioners
Mr. P.P. Uttarwar, Advocate for respondents No. 1 to 4

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 17th MARCH, 2016.

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and with consent of learned advocates for appearing parties heard, finally.
2. Present petition has been moved by petitioners - original defendants No. 2 and 3 aggrieved by the impugned order dated 28-09-2015 on Exhibit-72 in regular civil suit No. 50 of 2011 passed by civil judge, junior division, Mukhed whereunder their request, to place on record certified copies of documents and for exhibition of the same, photo copies of which are appearing on record which were referred to in written statement, has been turned down.
3. The primary reason, which had weighed with trial court is that arguments in the matter were heard and the matter had been posted for filing citations and despite ample opportunities being available such efforts had not been made. There does not appear any other impediment save and except aforesaid reason for production of certified copies as referred to under Exhibit-72.
4. Learned counsel for petitioners refers to order dated 30-07-2015 on applications Exhibits-63 and 65. Those applications were filed on either side for production of documents and exhibition of the same, which had been allowed.

5. Learned counsel for respondents, however, purports to submit to view the matter from different angle. According to him, the application has been moved for procrastination of the litigation. There is no reason given in the application for such belated approach.

6. Learned counsel for the petitioners, however, purports to explain the situation stating that petitioner No. 1 is housewife and petitioner No. 2 is prosecuting studies and the matter is in respect of immovable property. Petitioner No.1 could not appreciate the importance of certified copies, since she had been rustic. He further submits that certified copies of the documents, of which photo copies are appearing on record, referred to in written statement are sought to be placed on record and, therefore, he urges for lenient view in the matter and allow the writ petition.

7. Aforesaid submissions of learned counsel for the petitioners cannot be said to have gone in well with learned counsel for respondents. He submits that these are the submissions advanced to suit the convenience of the petitioners and delay has been caused in the process. He, therefore, requests not to give indulgence to the petitioners.

8. Taking into account aforesaid situation and having regard to the reasons which have weighed with civil judge junior division, Mukhed, and the time span between the orders on Exhibits-63 and 65 in order to have fair and proper adjudication, belated approach will have to be viewed liberally in the matter having regard to that parties come from

muffosil area. In the circumstances, I deem it appropriate in the interest of justice to allow application Exhibit-72 in order to avoid procrastination of litigation at subsequent stage on that count.

9. In view of aforesaid, writ petition is allowed. The impugned order dated 28-09-2015 on Exhibit-72 in regular civil suit No. 50 of 2011 passed by civil judge, junior division, Mukhed stands set aside subject to payment of costs of Rs. 5,000/- to be payable to the respondents - original plaintiffs. Application Exhibit-72 stands allowed. The amount of costs of Rs. 5,000/- be deposited in the trial court within a period of four weeks from today. Upon deposit of the same, respondents - original plaintiffs would be entitled to withdraw the same.

10. However, at this stage parties to the suit fairly agree upon that the suit deserves expeditious disposal. In view of the same, civil judge, junior division, Mukhed, shall dispose of regular civil suit no. 50 of 2011 as expeditiously as possible, preferably within a period of six months from the date of receipt of writ of this order. It is expected that parties would co-operate for expeditious disposal of the suit.

11. Writ petition stands disposed of accordingly. Rule is made absolute in aforesaid terms.

Sd/-

(SUNIL P. DESHMUKH, J.)

MTK