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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.28 OF 2016

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| 1. Ramnath s/o Sakharam Pawar
Age – 51 years, Occ – Agriculture
R/o Ladsawangi,
Taluka and District – Aurangabad | PETITIONERS |
| 2. Babasaheb s/o Sakharam Pawar,
Age – 36 years, Occ – Agriculture
R/o Ladsawangi,
Taluka and District – Aurangabad | |

VERSUS

Raosaheb Baban Pawar Age – 51 years, occ – Agriculture R/o Ladsawangi, Taluka and District – Aurangabad	RESPONDENTS
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Mr. Kiran D. Jadhav, Advocate for the petitioners	
Mr. P. P. More h/f Mr. N. S. Ingle, Advocate for the respondent	

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 10th MARCH, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. The petitioners are before this court aggrieved by a non speaking order dated 14th August, 2015, upon an application Exhibit-27 filed by the petitioners-defendants in Regular Civil

Suit No.652 of 2014 pending before Civil Judge, Junior Division, Aurangabad seeking to defer hearing of the suit till decision in the proceedings pending before District Superintendent of Land Records.

3. Learned advocate for the petitioners points out that the rejection has been on the sole ground that the appeal bearing No.718 of 2014 pending before Superintendent of Land Records, is considered to be not on record before the court, however, the situation is otherwise. He refers to his written statement, wherein, in paragraph "F" as appearing on page 30 there is reference to said document. He further submits that cognizance of said document is also taken while deciding temporary injunction application.

4. Learned advocate for the respondent, however, submits that proceedings before Superintendent of Land Records, are subsequent in point of time, after lodging of the suit and further that the reasons for rejection of application Exhibit-27 purportedly may not be proper, however, the ultimate decision is correct.

5. Perusal of the impugned order shows that it is too terse and is short of reflection of application mind to the contents

of the application Exhibit-27. In view of the same, I deem it appropriate and expedient to set aside the impugned order and remit the matter for re-consideration, having regard to documents on record, as are stated by learned advocate for the petitioners to be available.

6. As such, the impugned order dated 14th August, 2015 passed by civil judge, junior division, Aurangabad on Exhibit-27 in Regular Civil Suit No.652 of 2014 is set aside. Application Exhibit-27 is restored to be decided in accordance with law and facts and the record. It is made clear that merits of application Exhibit-27 were not at all under consideration while this order has been passed. Writ petition, as such, stands allowed. Rule is made absolute in aforesaid terms.

[SUNIL P. DESHMUKH, J.]