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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2795 OF 2016

WITH

WRIT PETITION NO. 3155 OF 2016

WITH

WRIT PETITION NO. 3156 OF 2016

Bhaskar Rama Dhawade & Ors.

...Petitioners

vs

Ranjeet Narshingrao Pisal/Deshmukh & Ors.

...Respondents

WITH

WRIT PETITION NO. 7000 OF 2016

Ranjeet Narshingrao Pisal/Deshmukh & Ors.

...Petitioners

vs

Bhaskar Rama Dhawade & Ors.

...Respondents

.....

Mr Vivek Salunke for the Petitioners in WP No.2795/2016, WP No.3155/2016, WP No.3156/2016 and Respondent Nos.1, 2A and 2B in WP No.7000/2016

Mr Vishwajeet Sawant a/w P.G.Chavan and Prathakar Jadhav for the Petitioner in WP No.700 of 2016 and Respondent No.1 in WP No.2795/2016 and WP No.3155/2016 and WP No.3156/2016

Ms Tejas Kapre i/b Sanjay Kshirsagar for Respondent No.5 in WP No.7000/2016 and Respondent No.4 in WP No.2795/2016, 3155/2016 and 3156/2016.

Mr K.A.Hirve for Respondent No.6 in WP No.7000/2016 and Respondent No.5 in WP No.2795/2016, WP No.3155/2016 and WP No.3156/2016.

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CORAM : N.M.JAMDAR, J.

21 SEPTEMBER, 2016

P.C. :

Heard learned counsel for parties. This group of Petitions pertain to the Special Civil Suit No.370 of 2012 filed by the Plaintiffs / Petitioners in Writ Petition Nos. 2795/2016, 2155/2016 and 3156/2016; the Respondents in WP No.7000 of 2016 is the Defendant No.1. Learned counsel for parties state that for disposal of the Petitions and the fact that the suit has been stayed by an interim order passed in these Petitions, the presence of unrepresented Respondents in these Petitions is not necessary as they are not the contesting parties in respect of the order that is proposed to be passed. In the circumstances, these Petitions are taken up for disposal.

2 As far as Writ Petition No.2795 of 2016 is concerned, learned counsel for Respondents / Defendant No.1 has submitted that purely to expediate the disposal of the suit and without prejudice to the rights and contentions of the Defendants that the property is not joint family property, Defendant No.1 is not averse to join the sons and daughters of Defendant Nos.2 and 3 as Defendants / parties to the said suit. Therefore, this Petition can be allowed in terms of prayer clause (a) and is accordingly so allowed. It is clarified that the observations made by the learned Civil Judge, Senior Division., in the impugned order regarding the nature of the property and rights of the proposed Defendants will have to be treated

as *prima facie* and this issue will be considered on its own merits, during the trial. The amendments, as directed, to be carried out within a period of three weeks from today.

3 As far as Writ Petition No.3156 of 2016 is concerned , in this Petition what is challenged is rejection of the application filed on behalf of the Petitioners/ Plaintiffs for joining son and daughter of the Plaintiffs as co-plaintiffs. After arguing the matter for some time, learned counsel for the Petitioner states that they will be joined as co-defendants. In the circumstances, no further inquiry in this Petition is necessary. The Petition is disposed of. Liberty to the Petitioners to join the Plaintiffs proposed to be joined as co-defendants. The Petitioners will file the application in the trial court within a period of three weeks from today.

4 As far as Writ Petition No.3155 of 2016 is concerned, the Petitioners have challenged the order passed below Exh. 116, wherein the application moved by the Petitioners for producing the original sale-deed was rejected. There is no merit in this challenge. The Defendants have already made statement as is recorded, that the sale-deed is not in their custody but in the bank locker and due to some dispute the locker is not accessible and if the Petitioners/ Plaintiffs rely on certified copy of the sale-deed the Defendants will have no objection. Learned Civil Judge, was therefore, right in rejecting the application.

5 As far as, Writ Petition No.7000 of 2016 is concerned, the Petition is filed by Defendant No. 1 to challenge the finding given in the order dated 25 November, 2015. In the light of disposal of Writ Petition No.2795 of 2016 and the observations made above in this order in respect of this Petition that the reasons given by the learned Civil Judge, Sr. Dn., are *prima facie* and no separate order needs to be passed in this Petition. The Petition is disposed of.

6 Learned counsel for Defendant No.1 makes grievance that after obtaining interim order in the suit, various applications are being taken out just to delay the proceedings. Learned counsel for the Petitioners/ Plaintiffs controverts this assertion. It is informed that the Petitioners have not yet filed an affidavit of evidence. The Petitioners will file an affidavit of evidence within a period of six weeks from today. If the affidavit of evidence is not filed, the application taken out by the Petitioners/ Plaintiffs for temporary injunction will be listed before the learned Civil Judge, Sr. Dn., who will consider the contentions of temporary injunction thereafter on its own merits. Considering the nature of the dispute, time bound schedule is required to be directed. Learned Civil Judge, Sr. Dn., Pune to make an endeavour to dispose of the suit on or before 31 December, 2016, subject to earlier time-bound commitments. The undertakings given by the learned counsel for parties on behalf of their clients that they will co-operate

with disposal of the suit is accepted. The Writ Petitions are disposed of in the above terms.

(N.M.JAMDAR J.)