

Sequeira

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

WRIT PETITION NO. 2761 OF 2015

Mr.Ashok Vithhal Thorat & ors.

.. Petitioners

Vs

Mr.Jaysingh Nyanu Pisal

.. Respondent

Mr.Karan Bhosale i/b Neha Bhosale, for Petitioners.

Ms.Aditi Athawale i/b Rajesh Datar, for the Respondent.

***CORAM : N.M.Jamdar, J.
Friday, 30 September 2016.***

P.C. :

By order passed on 8 June 2016 notice was issued to the Respondent for Final disposal. Heard both sides.

2. The Petitioners-Defendants had made an application to frame an additional issue on the point of non-joinder of necessary parties. By the impugned order the learned Civil Judge Junior Division, Karad has rejected the application.

3. In the impugned order itself the learned Civil Judge has recorded that the defendants have raised issue of non-joinder of parties in the written statement, however, the predecessor has not framed the issue. Since Petitioners have already taken the ground of non-joinder of necessary party in the written statement, merely

because the issue is not framed, Petitioners will not be precluded from advancing arguments based on the ground of non-joinder of necessary party. Framing issues is primarily to focus the attention of parties to the controversy involved. Because the particular issue is not framed will not necessarily mean that the parties are precluded from advancing such arguments as are available in law. Since Petitioners have already taken ground of non-joinder of necessary parties in the written statement, it is clarified that even though the issue is not framed, Petitioners will not be precluded from advancing such contentions as are available in furtherance of this submission. Since this adequately protects the interest of Petitioners, no interference in the impugned order is warranted. Writ Petition is disposed of.

(N.M.Jamdar, J.)