

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.309 OF 2016

(Smt. Vandana Krushnaji Kayarkar and others
 vs.
 Motiram Tukaram Mohurle and another)

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Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : Z.A. HAQ, J.
DATE : 5th FEBRUARY, 2016.

Heard Shri S.Y. Deopujari, learned Advocate for the petitioners-original plaintiffs and Shri M.A. Kadu, learned Assistant Government Pleader for respondent No.2.

The petitioners have challenged the order passed by the Trial Court rejecting the application [Exh.35] for recalling the reference made to the Tahsildar, Kelapur for deciding the issue as to whether the defendant is a deemed tenant or not. The learned Trial Judge has recorded that similar applications [Exh.14 and Exh.31] were made earlier and they have been rejected. I do not find any patent illegality or irregularity in the impugned order. I see no reason to interfere with the impugned order.

However, I find that the petitioners-plaintiffs had made an alternate prayer in the application seeking directions to the Tahsildar for deciding the reference within stipulated time.

The learned Advocate for the petitioners states that the reference is pending for about 10 years. Considering the above facts, in my view, it would be appropriate to direct the Tahsildar, Kelapur to decide the reference till 6th of May, 2016.

This order is passed without issuing notice to respondent No.1-original defendant, as substantive right of respondent No.1 is not affected by the direction given by this Court to the Tahsildar, Kelapur.

The petition is disposed in above terms. In the circumstances, the parties to bear their own costs.

JUDGE

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