

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.230 OF 2016

- | | | |
|----|---|-------------|
| 1. | Jijabrao s/o Shankar Patil
Age - 54 years, Occ - Agriculture
R/o Wadali Digar, Taluka - Jamner
District - Jalgaon | PETITIONERS |
| 2. | Sahebrao s/o Shankar Patil,
Age - 50 years, Occ - Agriculture
R/o Wadali Digar, Taluka - Jamner
District - Jalgaon | |
| 3. | Dilip Narayan Patil,
Age - 45 years, Occ - Agriculture
R/o Wadali Digar, Taluka - Jamner
District - Jalgaon | |
| 4. | Shivaji Tukaram More
Age - 35 years, Occ - Agriculture
R/o Wadali Digar, Taluka - Jamner
District - Jalgaon | |

VERSUS

- | | | |
|----|--|-------------|
| 1. | Gram Panchayat (Wadali Digar)
Through its Sarpancha,
Taluka - Jamner, District - Jalgaon | RESPONDENTS |
| 2. | Sarpanch Gram Panchayat (Wadali Digar)
R/o Jamner, District - Jalgaon | |
| 3. | Sau. Chitra Pratap Dahivelkar,
Age - 35 years, Occ - Household
R/o Plot No. 103, S. No. 412,
Nehru Nagar ,Mohadi Road,
Jalgaon, District - Jalgaon | |
| 4. | Reshmabai Shankar Patil
Age - 70 years, Occ - Agriculture
R/o Wadali Digar, Taluka - Jamner
District - Jalgaon | |

.....
Mr. S. D. Hiwrekar, Advocate for the petitioners
Mr. P. B. Shinde, Advocate for respondents No. 1 and 2
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 8th AUGUST, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the appearing parties.
2. Petitioners are plaintiffs in Regular Civil Suit No. 141 of 2010 instituted for injunction against present respondents No. 1 to 4 in respect of suit property. During pendency of suit, plaint had undergone some amendment and while subsequently, while plaintiffs claim to have come in possession of certain documents, relevant to and which may have bearing in the matter, amendment pursuant to the same had been sought by filing application Exhibit-73 in Regular Civil Suit No. 141 of 2010. Said application Exhibit-73 for amendment has been rejected by Civil Judge, Junior Division, Jamner under order dated 8th October, 2010 and thus, the petitioners-plaintiffs are before this court.
3. It is the contention of learned advocate for the petitioners that only issues have been framed in the suit and yet trial has

not commenced, still the court has observed that trial has commenced in the present suit. He submits that the other reason which had weighed with the court is extraneous one.

4. Learned advocate for respondents No. 1 and 2 does not have any particular instructions in respect of stage in the suit. Other respondents have not put in their appearance though have been served twice in the matter, once intimating that the matter is likely to be disposed of finally. Yet, despite service they have chosen to remain absent. Submissions of learned advocate for the petitioners are that beyond framing of issues matter has not travelled further and as such, trial has not commenced, go uncontroverted.

5. In view of aforesaid, I deem it appropriate that writ petition be allowed in the interest of justice.

6. Writ petition, as such, stands allowed. Impugned order dated 8th October, 2015 on Exhibit – 73 in Regular Civil Suit No. 141 of 2010 pending before Civil Judge, Junior Division, Jamner stands set aside. Application Exhibit-73 stands allowed. Rule is made absolute in aforesaid terms.

[SUNIL P. DESHMUKH, J.]