

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3277 OF 2016

1. M/s R.K.Constro Projects Pvt.Ltd.,
Through Sameer C.Mehta,
34, Bhagyanagar, Aurangabad.
2. Sameer C.Mehta,
Age 46 years, Occu: Business,
R/o. C-21/CS, Town Center,
N-1, CIDCO, Aurangabad.

**...PETITIONERS
(Orig.Defts.No.1 and 2)**

VERSUS

1. Mazhar Hussain s/o Isaq Ali,
Age 67 years, Occu: Retired,
R/o Plot No.14, N-12 (B-Sector),
Hudco, Opp. Saleem Ali Garden,
Aurangabad.
2. Tasneem Bano w/o Mazhar Hussain,
Age 65 years, Occu. Household,
R/o. Plot No.14, N-12 (B-Sector),
Hudco, Opp. Saleem Ali Garden,
Aurangabad.

**...RESPONDENTS
(Orig.defts. 1 and 2)**

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Shri. Ajit D.Kasliwal, Advocate, for the petitioners.
Shri Jadhav Mangesh R., Advocate for respondent nos. 1
and 2.

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CORAM : P.R. BORA, J.
Dated: April 04, 2017

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P.C.:

1. With the consent of the parties, heard finally at the admission stage.

2. After hearing the learned Counsel appearing for the parties for some time, it appears to me that it would be in the interest of both the parties that, the application below Exh.5, submitted by respondents herein, is re-heard by the trial Court. At the time when the impugned order was passed, the written statement was not on record. The order is passed assuming that the averments are uncontroverted. In the written statement, certain defenses are raised by the defendants and as such it is necessary that the trial Court shall re-hear the the parties.

3. Learned Counsel for the original plaintiffs submits that the plaintiff is more than 70 years old. He has invested his hard-earned money with the defendants

and neither he is getting back the said amount nor monetary benefits of the said investment. Learned Counsel has, therefore, prayed for direction in this petition itself to the Court below for expeditious disposal of the suit itself. Learned Counsel for the petitioners submits that he may not have any objection if such an order is passed.

4. Considering the above submissions, the following order is passed.

ORDER

1. The impugned order dated 3rd February, 2016, is quashed and set aside.

2. Learned Civil Court is directed to hear the application Exh.5 afresh by giving hearing to the parties and pass necessary orders within two weeks from the date of receipt of the writ in this matter. The trial Court is further directed to expedite hearing of the suit and make an endeavour to dispose of the suit within one year from the date of this order.

The Writ Petition stands allowed in above terms. No order as to the costs.

**(P.R. BORA)
JUDGE**

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AGP/3277-16wp