

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

WRIT PETITION NO.4971 OF 2017

1. Vinod s/o Bhagchand Mandlecha,
Age 47 years, Occu. Business and
Agriculture
2. Pratk Vinod Mandlecha,
Age 26 years, Occu. Business,
Both R/o Sillod, Taluka Sillod,
District Aurangabad ..Petitioners

Versus

1. Hukumchand s/o Ganeshlal Mandlecha,
Age 63 years, Occu. Nil,
R/o Sillod, District Aurangabad
2. Sadhana w/o Vinod Mandlecha,
Age 41 years, Occu. Household,
Both R/o 5, Jalna road, Sillod,
District Aurangabad
3. ShaheenBegum w/o Sayyed Khan
Pathan, Age 29 years,
Occu. Household, R/o Shivaji Chowk,
Sillod, Taluka Sillod,
District Aurangabad ..Respondent

Mr B.R. Warma, Advocate for petitioners
Mr A.D. Kasliwal, Advocate for respondent no.1

CORAM : A.M. DHAVALA, J.

DATE : 10th July 2017

PER COURT

1. Rule. Rule made returnable forthwith. By consent of parties, petition is taken up for final disposal at admission stage.
2. Counsel for respondents no.3 to 11 is absent.
3. The respondents as original plaintiffs in Special Civil Suit No.151 of 2015 filed application Exh.40 before the Joint Civil Judge, Senior

Division, Aurangabad, for permission to examine three Medical Officers before placing his own evidence. Their application Exh.40 dated 8th March 2017 was adjourned to 30th March 2017. On that day, no say was filed by the defendants – petitioners herein. Learned Counsel for the petitioners submits that Counsel for the petitioners came late. Meanwhile, the impugned order dated 30th March 2017 was passed and the application was allowed.

4. Apart from the fact that it was allowed without hearing the defendants, It also suffers from lack of reasons for allowing such application. The learned Advocate agreed for rehearing of application Exh.40.

5. Considering the facts, the impugned order dated 30th March 2017 passed by learned Civil Judge, Senior Division, Aurangabad on application Exh.40 is quashed and the learned trial Judge is directed to reconsider the application, permit the defendants to file say and after hearing the parties, decide the same with reasons within a period of fifteen days from the receipt of this order.

6. Rule made absolute in above terms.

(A.M. DHAVAL, J.)