

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

BENCH AT AURANGABAD.

WRIT PETITION NO.673 OF 2015

Mohd.Waliyoddin Gulam Gous ...Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.S.M.Kulkarni, advocate for the petitioner.
Mr.S.G.Karlekar, A.G.P. for the State.
Mr.D.R.Bhadekar, advocate for Respondent Nos.4A
to 4D.

...

CORAM : S.V.GANGAPURWALA J.

Date : 12.12.2017.

PER COURT :

1. The petitioner assails the order passed by the learned Civil Judge, rejecting the application Exh.136 filed by the petitioner, thereby refusing to dismiss the suit as barred by principle of res-judicata.

2. According to learned counsel for

petitioner, this Court in Writ Petition No.984/1988 under order dated 6.5.2010 has already decided about the title of the suit property.

3. Mr.Bhadekar, learned counsel submits that the suit can not be dismissed on account of res-judicata as in a substantive suit the issue of title is being raised.

4. The Court has observed in the impugned order that even if the issue of res-judicata is not framed and if found necessary it can be framed during the course of trial.

5. The learned trial Judge shall frame the issue of res-judicata if it is not framed, so as to enable the parties to adduce evidence.

6. With these observations, the Writ Petition is disposed of. No costs.

(S.V.GANGAPURWALA, J.)

