

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

WRIT PETITION NO. 12902 OF 2017

SAYANKABAI RAGHO PATIL AND OTHERS
VERSUS
HARSHA PRADEEP PATIL

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Advocate for Petitioners : Mr Dhorde Pramod P.

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CORAM : V.K. JADHAV, J.
Dated: November 06, 2017

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PER COURT :-

1. I do not find any substance in this writ petition. Being aggrieved by the order passed by the learned 7th Jt. Civil Judge S.D., Jalgaon dated 14.9.2017 below exh.75, in R.C.S. No.181/2012, original defendants approached to this court by filing this writ petition.

2. Learned counsel for the petitioners submits that, petitioner-original defendant no.2 has filed the application exh.43 contending therein that respondent-plaintiff has not paid the requisite court fees. Further, respondent-plaintiff is not entitled for the exemption as per the notification granting exemption to the women litigants. Learned judge of the trial court, by order

aaa/-

dated 29.7.2015 allowed said application and directed the respondent-plaintiff to affix the requisite court fee stamp as per law. Being aggrieved by the same, respondent-plaintiff has approached this Court by filing Writ Petition no.271/2016 and this court by order dated 13.10.2016 confirmed said order passed by the trial court.

3. Learned counsel submits that, thereafter respondent-plaintiff has filed an application Exh.75 pointing out to the Court therein that, respondent-plaintiff is not in a position to pay the court fees and as such, she has filed an application bearing Pauper Petition No.1/2017. Respondent-plaintiff has, thus, requested the court to consolidate the said Pauper Petition No.1/2017 with the pending suit. Learned counsel submits that, in the earlier applications when the Court has directed the respondent-plaintiff to pay requisite court fees, respondent-plaintiff has not mentioned in those applications that she was not in a position to pay the court fees. Learned counsel submits

that, it is abuse of process of court. Respondent-plaintiff is intending to prolong the litigation.

4. On perusal of the order passed below exh.75, it appears that, the trial court has allowed said application on the ground that Pauper Petition no.1/2017 cannot be decided unless and until the inquiry is conducted as provided under Rule 7 of Order 33 of Civil Procedure Code. No prejudice is likely to be caused to the petitioners-defendants if the application Pauper Petition bearing No.1/2017 is rejected, respondent-plaintiff would be liable to pay requisite court fees. Earlier order passed below exh.43 and confirmed by this court in Writ Petition no.271/2016 pertains to scope of the said notification granting exemption to the women litigants. I do not find any fault in the impugned order. There is no substance in this writ petition. Learned Judge of the trial court has rightly consolidated the suit and the Pauper Petition No.1/2017 and further directed hearing of the Pauper petition to be expedited. Hence, following order.

ORDER

1. Writ petition is hereby dismissed.
2. No costs.

(V.K. JADHAV, J.)

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