

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2247 OF 2018

RAJENDRA AMBADAS KHAIRNAR AND OTHERS
VERSUS
RAMAN JHIPRU KHAINAR AND OTHERS

...

Advocate for Petitioners : Shri S.P.Brahme

...

CORAM : RAVINDRA V. GHUGE, J.

Dated: February 27, 2018

...

PER COURT :-

1. The petitioners / defendants 3 to 5 are aggrieved by the impugned order dated 7.9.2017, passed by the trial Court, thereby allowing application Exhibit 55, filed by the plaintiff, due to which, these defendants have been prevented from cross-examining the plaintiff.

2. Strenuous contention of the learned counsel for the petitioners is that since two Advocates were engaged by these petitioners and defendants 1 and 2, after the Advocate conducted the cross-examination of the plaintiff on behalf of defendants 1 and 2, these defendants have a right to cross-examine the plaintiff independently.

3. Notwithstanding the strenuous submissions of the learned

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2 - WRIT PETITION NO. 2247 OF 2018

Advocate, it cannot be ignored that all the five defendants have entered a common written statement on their behalf. A common stand has been taken against the plaintiff. All of them have opposed the suit under a common defence. The learned Advocate, who held the vakilpatra for defendants 1 and 2, commenced the cross-examination without intimating to the plaintiff or the Court that the cross-examination is being conducted only on behalf of defendants 1 and 2 and that the other learned Advocate would conduct the cross-examination on behalf of the other defendants.

4. Notwithstanding the above, having entered a common written statement and one Advocate having extensively cross-examined the plaintiff, another Advocate cannot be permitted to cross-examine the plaintiff on the plea that he has different points for cross-examination, considering the law laid down by this Court in the matter of Venkatrao A. Patil Vs. Narayanlal Bansilal and others [AIR 1961 Bom.94].

5. This petition, being devoid of merits, is dismissed.

(RAVINDRA V. GHUGE, J.)

...