

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO. 4040 OF 2018

LATABAI TUKARAM BADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Shinde Chandrakant K.
AGP for Respondents 1 to 4 : Shri Kutti P.N.
Advocate for Respondents 5 to 32 : Shri Patekar N.B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 26, 2018
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PER COURT :-

1. I have heard the strenuous submissions of the learned counsel for the petitioners and on behalf of the respondents. With their assistance, I have gone through the petition paper book.

2. I find that the application Exhibit 23, which has been rejected by the trial Court by the impugned order dated 22.3.2018 in RCS No.118 of 2018, is an application seeking temporary relief. An application Exhibit 5, filed by these petitioners, under Order XXXIX Rules 1 and 2 of the Civil Procedure Code ("CPC") is pending. During the pendency of Exhibit 5, the trial Court has rightly held that its jurisdiction cannot be invoked when one of the plaintiffs has resorted to a remedy under the Maharashtra Land Revenue Code and the plaintiff No.2 is not affected by the orders passed by the revenue authorities.

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3. Notwithstanding the above, the plaintiffs have a right to canvass Exhibit 5 and it is for the trial Court to decide the same after hearing all the litigating sides.

4. Considering the above, this petition is disposed off. It be noted that the original plaintiffs are at liberty to canvass Exhibit 5, which the trial Court would decide on its own merits by considering all the contentions of the litigating sides.

Ajay
Kishanrao
Losarwar

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signed by Ajay
Kishanrao
Losarwar
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(RAVINDRA V. GHUGE, J.)

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