

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

WRIT PETITION NO. 8485 OF 2018

**AZIM ABDUL HAMID TAMBOLI AND OTHERS
VERSUS
SACHIN S/O MANOJ NARANG**

...

Advocate for the Petitioners : Shri P. P. Dawalkar h/f.
Smt. C. S. Deshmukh Charuta Sunil

...

**CORAM : RAVINDRA V. GHUGE, J.
DATED : 25th JULY, 2018.**

...

PER COURT :

1. The petitioners- original plaintiffs are aggrieved by the order dated 05/01/2018 and 05/04/2018 passed by the Trial Court below application Exhibit 31 and Exhibit 45, by which, the Trial Court has refused to issue witness summons in view of the law laid down by this Court in the matter of ***Shri Sanjay Sham Bagade V/s. Shri Ramesh Hari Madan, 2014 (4) ALL MR 19.***

2. I find from the record that the plaintiffs are yet to step into the witness box. It is further stated that they have not commenced the recording of their oral evidence. It is also admitted that a list of witnesses as required under Order 16

Rule 1 of the Code of Civil Procedure has also not been filed.

3. In the case of *Shri Sanjay (supra)*, this Court has refused leave to issue summons to a witness because the name of the said witness was not included in the list of witnesses. The applications, by which, summons were sought to be issued were bereft of reasons and there was no justification as to why summons are to be issued to a witness who is beyond the list of witnesses submitted by the plaintiffs. This Court, therefore, concluded that since no sufficient cause is shown and the application is bereft of any reason, the plaintiff could not be allowed to examine the witness.

4. The learned Advocate for the petitioners- plaintiffs submits that he would forthwith comply with Order 16 Rule 1 of the CPC by filing a list of the witnesses and thereafter, he may request the Court for issuance of summons in accordance with the said provision of the Code of the Civil Procedure.

5. Petitioner No. 3 has only tendered his affidavit in lieu of examination-in-chief and has also been cross-examined. As

such, if the petitioners complied with the Order 16 Rule 1 of the CPC, the Trial Court would consider the application of the petitioners for issuance of summons in accordance with law.

6. Considering the above, this petition is disposed of with the above observation.

(RAVINDRA V. GHUGE, J.)

shp/-