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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12005 OF 2017

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| 1. | Janardhan s/o Babasaheb Hadule
Age - 64 years, Occ - Agriculture
R/o Jaykuchiwadi, Taluka - Majalgaon
District - Beed | PETITIONERS |
| 2. | Bhimrao s/o Babasaheb Hadule
Age - 59 years, Occ - Agriculture
R/o Jaykuchiwadi, Taluka - Majalgaon
District - Beed | |

VERSUS

- | | | |
|----|---|-------------|
| 1. | Prakash s/o Kashinathrao Wakankar
Age - 45 years, Occ - Agriculture
R/o Jaykuchiwadi, Taluka - Majalgaon
District - Beed | RESPONDENTS |
| 2. | Vishnu s/o Baburao Idge,
Age - 42 years, Occ - Agriculture
R/o Jaykuchiwadi, Taluka - Majalgaon
District - Beed | |

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Mr. Sharad V. Natu, Advocate for the petitioners
Mr. Akash Gade h/f Mr. S. J. Salunke, Advocate for respondents
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 12th SEPTEMBER, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. Petition has been preferred by petitioners – defendants aggrieved by order dated 14th August, 2017 on Exhibit-100 in

Regular Civil Suit No. 331 of 2012.

3. Regular Civil Suit No. 331 of 2012 has been instituted by the respondent - plaintiffs seeking declaration of ownership and cancellation of mutation entry in respect of land survey No. 80 (Gut No. 166).

4. Petitioner - defendants appeared in the suit and have filed their written statement in the year 2013. Thereafter, issues were framed. Parties led evidence and have closed their respective evidence. Matter had even been finally argued on behalf of the plaintiffs and the application Exhibit-100 has been moved by the defendants purportedly seeking amendment to written statement in respect of land Gut No. 47 contending that the suit shall fail for non impleading of Uddhav, Ramprasad and Sudhakar, who are necessary parties.

5. Mr. Natu, learned advocate appearing for the petitioners vehemently submits that a report had been made by Tahsildar, Majalgaon dated 18th January, 1999 to Sub Divisional Officer making reference to Gut No. 166 and Gut No. 47 as well. He submits that the respondents are taking support of said report in the suit and as such, having regard to the same, it would be expedient to allow the amendment as sought.

6. On the other hand, Mr. Akash Gade learned advocate holding for Mr. S. J. Salunke, appearing on behalf of the respondents, submits that the suit has been filed in respect of Gut No. 166 and in the suit Gut No. 47 is not at all concerned. Reliefs have been claimed by the plaintiffs in respect of Gut No. 166 alone. He submits that while evidence on either side has been closed and the matter has been finally argued and hearing has taken place, so far as plaintiffs are concerned, at such stage the application has been moved in order to procrastinate and obfuscate the litigation to such matters which are not relevant. He submits that tactics are being adopted to have hearing and decision on the suit deferred.

7. Perusal of the impugned order shows that the suit has been filed by the plaintiffs in respect of Gut No. 166 and it is not coming forth as to how Uddhav, Ramprasad and Sudhakar are concerned with the same. The trial court, as such, considered that no concern is being shown of these persons with the suit property. The citation relied upon on behalf of the plaintiffs has been referred to and it is considered that there is no due diligence. In the circumstances, the trial court had declined to accede to the request of amendment.

8. Having regard to that there are no reasons spelt out save

inadvertence, about not having filed application for amendment before trial had commenced and that the application is not supported by any cogent reason and also falls short of, as observed by the trial court and as argued on behalf of the plaintiffs, about relevance of land and the persons concerned, impugned order would not be faulted with.

9. Writ petition is devoid of any substance. It stands dismissed. Rule is discharged. Interim relief stands vacated.

Dinesh
Ramrao
Pawar

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Ramrao Pawar
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[SUNIL P. DESHMUKH, J.]

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