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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6082 OF 2018

Ramchandra N.Tate & Ors.

...Petitioners

V/s.

Haibat M. Gaikwad Anr.

...Respondents

Mr.P.S. Dani, Senior Counsel I/b Mr.Rupesh K. Babade for the Petitioners.

Mr.S.S. Kulkarni I/b Mr.Devidas J. Jadhav for the Respondent Nos.1 and 2.

Ms.Preeti Walimbe for the Respondent No.3.

CORAM : R.D. DHANUKA, J.

DATE : 24TH OCTOBER, 2018.

P.C. :-

1. Mr.Dani, learned senior counsel for the petitioners on instructions seeks liberty to delete the respondent no.4 – Tahsildar, from the cause title of the petition. Liberty to amend the petition is granted . The amendment to be carried out forthwith. Re-verification is dispensed with.

2. By consent of parties the following order is passed :-

a). The impugned order and judgment dated 13th April, 2018 passed by the learned *Ad-hoc* District Judge - 1, Barshi in Miscellaneous Civil Appeal No.05 of 2018 (Exhibit – 26) and also the impugned order dated 3rd February, 2018 passed by the learned Civil

Judge, Senior Division, Barshi below Exhibit – 5 in Regular Civil Suit No.41 of 2017 are quashed and set aside. The Application (Exhibit – 5) is restored to file before the learned Trial Judge for considering the said application afresh without being influenced by the observations made by the learned Trial Judge in the impugned order dated 3rd February, 2018 and also in the order dated 13th April, 2018 passed by the learned *Ad-hoc* District Judge – 1, Barshi in Miscellaneous Civil Appeal No.05 of 2018.

b). Both the parties are allowed to file additional documents before the learned Trial Judge within two weeks from today and shall serve a copy thereof upon each other. Learned Trial Judge shall make an endeavor to dispose of the said application (Exhibit – 5) within eight weeks from today. *Ad-interim* order which was in force in favour of the plaintiffs before the learned Trial Court shall continue till the disposal of the said Application (Exhibit – 5) and for a period of two weeks from the date of communication of the said order if the same is adverse against the petitioners.

3. The writ petition is disposed of in aforesaid terms. There shall be no order as to costs.

4. All the parties as well as the learned Trial Judge to act on the authenticated copy of this order.

Vasant Anandrao
Idhol

Digitally signed by Vasant
Anandrao Idhol
Date: 2018.10.26 11:50:16 +0530

(R.D. DHANUKA, J.)