

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

33 WRIT PETITION NO.1417 OF 2018

RAMBHAU SADHU BHOJNE AND ANOTHER
VERSUS
LAXMIBAI SURYABHAN BHOJNE AND OTHERS

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Advocate for Petitioners : Mr. Khandare N.B.
Advocate for Respondent Nos.2 to 7 : Mr. Kedar Balbhim R.

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CORAM : V. K. JADHAV, J.
DATE : 18.11.2019

PER COURT :-

1. Heard both the sides.
2. This Writ Petition has been filed against the order passed by the Court below about closing of the evidence. The learned counsel appearing for the respondents submits that the witness proposed to be examined by the petitioners-original plaintiffs is not mentioned in the list of witness and as such the petitioners are not entitled for examining him as a witness. The Trial Court has rightly passed the order of closing the evidence of the petitioners-original plaintiffs. The petitioners-original plaintiffs have not examined the said witness for a long period, nor taken any steps.

3. The learned counsel for the petitioners-original plaintiffs submits that since the challenge is made to the document Power of Attorney executed in favour of one Rukhminibai Ghayal by the petitioners-original plaintiffs, the Court has directed the Power of Attorney representing the plaintiffs to prove the said document of Power of Attorney placed on record. The petitioners have therefore, wanted to examine the scribe of the said document Power of Attorney and as such the delay occurred.

4. The suit is of the year 2014. The petitioners are the plaintiffs. It is not for their advantage to keep the suit pending for years together for seeking a declaratory relief. In view of the same, this Writ Petition can be disposed off by directing the Trial court to dispose of the suit, as expeditiously as possible, preferably within a period of one year from the date of this order. It is needless to say that the petitioners-original plaintiffs are permitted to lead the evidence to prove the Power of Attorney document and so also the defendant. The impugned order of closing of the evidence and so also the no cross order in respect of the witness examined by the

respondents-defendants passed by the Court are set aside.

Hence, the following order :

ORDER

I. Writ petition is allowed in terms of prayer clause 'B' and disposed off accordingly.

II. The amount of Rs.7,000/- (Rupees Seven Thousand only) deposited before the Court shall be paid to the respondents-defendants.

(V. K. JADHAV, J.)

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vmk/-