

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

WRIT PETITION NO. 9258 OF 2019

**DHONDABAI BHANUDAS LONDHE
VERSUS
NARSING PANDHARI KAMGUNDA AND ANOTHER**

...
Advocate for the Petitioner : Shri S. S. Halkude

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 1st AUGUST, 2019.

...

PER COURT :

1. The petitioner is aggrieved by the order dated 04/12/2018, by which application Exhibit 109, seeking deletion of issue No. 7 in Regular Civil Suit No. 377/2013, has been rejected.

2. I have heard the learned Advocate for the petitioner and have gone through the petition paper book. He has drawn my attention to the ten grounds formulated in the memo of the petition. Reliance is placed upon the judgment of this Court in the matter of *Ramchandra Vasudeo Patankar Vs. Mandakini Purushottum Tapaswi*, 1994 (1) B C R 517, wherein this Court has concluded that though a party may contend many

factors in the pleadings, only those issues are to be cast which are to be adjudicated upon as being the material aspects involved in the case.

3. In the instant case, the defendant has pleaded that her husband was in possession of the suit property from 2003 to 2005 on the basis of a 'Bataipatra' and subsequently the defendant claims that she is a bonafide purchaser of the suit property. Considering the pleadings of the parties, the Trial Court has framed the issues below Exhibit 18 on 10/02/2014. Issue No.7 is as to "whether the defendant proves that she was in possession of the suit property as a 'Bataidar' since 2003 to 2005 ?"

4. The recording of oral evidence has commenced. Suit is more than 6 years old. Issues are cast in February-2014 and an application for deleting issue No.7 is filed on 19/10/2018. Moreover, it causes no prejudice to the parties if the Court finds that an answer to the said issue would assist in the proper adjudication of the suit. I do not find that any interference is warranted only because a different view could

be possible.

5. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-