

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

**WRIT PETITION NO. 8210 OF 2018**

Nana Balwant Idhate  
Deceased through L.Rs.  
Kisan Nana @ Nanabhau Idhate and Others ..PETITIONERS

VERSUS

Sakaram Maroti Tambe  
Deceased Through L.Rs.  
Anjnabai Sakaram Tambe and Others ..RESPONDENTS

....

Mr. A.B. Shirsath, Advocate for petitioners  
Mr. A.B. Gatne, Advocate for respondents

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**CORAM : R.G. AVACHAT, J.**  
**DATED : 19<sup>th</sup> SEPTEMBER, 2019**

**PER COURT :**

This writ petition is moved against orders dated 16<sup>th</sup> April, 2018 passed below application (Exh.1) and 20<sup>th</sup> June, 2018 passed by the learned Joint Civil Judge, Junior Division, Shrigonda below application (Exh.132) in a suit, being Regular Civil Suit No. 8 of 1985.

2. By order dated 16<sup>th</sup> April, 2018, the learned Judge rejected the application moved by the petitioners/plaintiffs seeking time to produce his evidence. Learned Trial Court passed order below Exhibit 1, whereby the evidence of the plaintiffs was closed and the suit was posted for recording of evidence of the respondents/defendants. The petitioners/plaintiffs then

moved application (Exh.132) for setting aside the order as to closure of his evidence. Learned Judge rejected the said application. The petitioners/plaintiffs are, therefore, before this Court.

3. Heard learned Counsel for the petitioners and the respondents. Perused the orders impugned in this petition.

4. It is true that the suit dates back to the year 1985. The record, however indicates that the suit had traveled upto this Court in the past and came to be remanded at the stage of framing of issues. It further appears that High Court had directed the Trial Court to decide the suit within a time frame. The same has weighed with the Trial Court to pass the impugned orders. Trial Court might have been justified in the facts and circumstances of the case. The fact, however remains that it is desirable that every suit or litigation is decided on its own merits, after giving the parties full opportunity to lead evidence in support of their contentions.

5. In the interest of justice, this Court is inclined to allow the writ petition. Hence the order :-

#### **ORDER**

(I) Writ petition is allowed.

(II) Impugned orders dated 16<sup>th</sup> April, 2018 and 20<sup>th</sup> June, 2018 are set aside.

(III) Petitioners to pay cost of Rs.2,000/- (Rupees Two Thousand).

(IV) Parties are directed to co-operate with the Trial Court for deciding the suit at the earliest.

**( R.G. AVACHAT, J. )**

SSD