

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

WRIT PETITION NO.3366 OF 2019

VIKAS HIRALAL JAIN AND OTHERS
VERSUS
SARDAR SOMA BHIL PIMPALSE AND ANOTHER

...

Advocate for the Petitioners : Shri H.F.Pawar h/f Shri Gujarathi Yatish G.
AGP for the Respondents/ State : Shri N.T.Bhagat

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 19th August, 2019

Per Court:

1 I have heard the learned advocate for the petitioners/ original defendant nos.1 to 3, who are aggrieved by the order dated 18.06.2018 vide which, the application exhibit 38 filed by them praying for trying certain issues as preliminary issues, has been rejected.

2 I have considered the grounds raised by the petitioners in the memo of the petition and have perused the petition paper book with the assistance of the learned advocate.

3 The order passed by the Trial Court is dated 18.06.2018. The advocates for the respective sides have signed below the order recording that they have read the order and noted the same. The issues have been cast on 26.08.2013 and the suit is pending for recording of oral evidence

for the last five years. In my view, the suit need not be tried in bits and pieces. Though the Trial Court has not assigned detailed reasons for refusing to try a particular issue as a preliminary issue, I find that issue nos.3 and 4, which the petitioners desire to be dealt with as preliminary issues, are mixed questions of facts and law pertaining to the limitation and jurisdiction.

4 In view of the above, this writ petition is disposed off.

5 As the suit is more than 07 years old, the Trial Court would endeavour to decide Special Civil Suit No.121/2012 expeditiously and preferably on or before 31.03.2020. The litigating sides shall cooperate and the Trial Court would be at liberty to reject the applications for adjournments, if they are based on unreasonable or trivial grounds.