

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12588 OF 2018
(Dipali Himmat Meherwal and another Vs. Shaikh Nazir Mohd. Nasir
and others)

Mr.A.P.Bhandari, Advocate for the petitioners.
Mr.S.D.Tawshikar h/f Mr.M.A.Jahagirdar, Advocate for respondent
Nos. 1 to 4.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 08/02/2019

PER COURT :

1. Learned Advocate for respondent No.1 / Caveator submits on instructions that he can appear for respondent Nos. 1 to 4 who are the original plaintiffs and who are opposing the application Exh.103 filed by these petitioners.

2. Learned Advocate for the petitioner/original defendant Nos. 1 and 2 submits that notice to respondent Nos. 5 and 6 would not be necessary as they are formal parties and co-defendants and they had not opposed the application Exh.103.

3. The petitioners are aggrieved by the observations of the Trial Court in the order dated 05/10/2018 by which Exh.103 seeking framing of additional issues, was rejected, though granting relief in

part to the petitioners.

4. I have heard the submissions of the learned advocates for the respective sides.

5. Learned Advocate for the petitioners submits on instructions that the petitioners desire that the issues proposed at Sr.Nos.14, 16 and 19 would be necessary pursuant to the observations of the Trial Court that issue Nos.1 to 8, 10 to 13 and 15 are covered in the issues already cast at Exh.102.

6. Learned Advocate for the original plaintiffs submits that proposed issue No.14 is covered by issue Nos. 12 and 15 already cast. Proposed issue No.16 is covered by issue No.1 and proposed issue No.19 is covered by issue No.15. He, therefore, submits that the petitioners can lead their evidence on the basis of their pleadings in respect of proposed issue Nos.14, 16 and 19 which stand covered by issue Nos. 1, 12 and 15.

7. Learned Advocate for the petitioners submits that in view of the above, this petition could be disposed off.

8. Considering the above and the statement as regards proposed issue Nos. 14, 16 and 19, this petition would stand disposed of and the Trial Court would note that the parties can lead evidence as per their pleadings, in view of the observations of the Trial Court and proposed issue Nos.14, 16 and 19.

(Ravindra V.Ghuge, J.)