

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

WRIT PETITION NO.14308 OF 2019

SALIM UL HASAN ALIAS SALIMODDIN KHAN MUMTAZODDIN KHAN,
LRS MAHARUNNISSA BEGUM AND OTHERS
VERSUS
ABDUL RAZZAK MOHD YASIN QUADRI AND OTHERS

...

Advocate for the Petitioners : Shri A.T.Shaikh h/f Shri Patel Shaikh
Ashpak Taher

Advocate for the Respondents : Shri A.P.Bhandari

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 27th November, 2019

Per Court:

1 The petitioners are the original objection petitioners in LAR No.38/2002. They are aggrieved by the order passed on 09.10.2019 closing their right to cross-examination.

2 I have considered the strenuous submissions of the learned advocates for the respective sides.

3 The land Gat No.118 is the subject matter of LAR No.38/2002. The same land Gat No.118 was the suit property in RCS No.1063/1983 filed by the original plaintiff, whose legal heirs are the petitioners before this Court. After 27 years, the said suit of 1983 was dismissed in default on 20.12.2010. Miscellaneous Civil Appeal

No.96/2012 seeking restoration of the suit was also dismissed in default on 18.09.2017. These orders have attained finality. As such, the claim of the original plaintiff, which would flow to the present petitioners if they are held to be entitled, stands negated in the 1983 suit, which was filed for declaration of ownership. These petitioners, having delayed LAR No.38/2002 proceeding over a period of 17 years, suffered "no evidence" order on 12.07.2019. The said order is not challenged. Subsequently, respondent no.1 was examined on 01.08.2019. After six weeks, the LAR Court was constrained to pass "no cross" order on 09.10.2019, which is impugned in this petition. It is informed that the said LAR proceeding is reserved for pronouncing the judgment today.

4 Despite the above factors clearly indicating that the petitioners are delaying the proceeding, I called upon the learned advocate for the petitioners to state as to whether, they would deposit Rs.30,000/- (Rupees Thirty Thousand) as costs so that a chance could be granted. It was informed that the petitioners are not willing to deposit the said costs.

5 In view of the above and keeping in view that LAR No.38/2002 is posted for judgment today, this Writ Petition is dismissed.