

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

924 WRIT PETITION NO.6731 OF 2014

YESHWANTRAO AMRATRAO JADHAV

VERSUS

MURLIDHAR ARJUNRAO JADHAV AND ANOTHER.

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Mr. B.N. Patil, Advocate for the petitioner.
Mr. A.S. Kadam, Advocate for respondent Nos.1-A to 1-H.

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CORAM : Rohit B. Deo, J.

DATE : 3rd January 2020.

ORDER :-

. The plaintiff, who brought a suit for declaration and injunction, is aggrieved by the refusal of trial Court to permit the plaintiff to adduce evidence in rebuttal.

2. Contention of the plaintiff is that since he filed a precipe reserving the right to adduce evidence in rebuttal, learned trial Court committed error in rejecting the application to adduce rebuttal evidence.

3. The application for permission to adduce rebuttal evidence is premised on a statement in the evidence of defendant that he has land which is situated to the western side of the land of the petitioner - plaintiff.

4. I am satisfied that the order impugned is not vitiated by any error much less an error warranting inference in writ jurisdiction.

5. The plaintiff has not made out a case for adducing rebuttal evidence. Contention of the plaintiff is that the defendant has deposed a fact which is not pleaded. If this be so, it would be for the trial Court to appreciate the evidence from the said perspective. The case of plaintiff is not that since the defendant was under certain burden, the plaintiff chose not to adduce evidence and reserved his right to adduce rebuttal evidence.

6. The petition is without substance and is dismissed.

7. This petition is pending since 2014 and the proceedings are stayed.

8. Learned trial Court is requested to dispose of the Civil Suit as expeditiously as possible and in any event, within three months from the communication of this order.

(ROHIT B. DEO, J.)