

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

27. WRIT PETITION NO. 10733 OF 2016

1. Saraswatibai W/o Narayanrao Bhosle
age 86 years occupation household
2. Govindrao S/o Naraanrao Bhosle,
age 54 years occupation agriculture

Both R/o Thugaon Taluka & Dist. Nanded ...Petitioners

VERSUS

Balaji s/o Nagorao Bhosle
age 31 years occupation agriculture
R/o Thugaon Taluka & Dist. Nanded ...Respondent

Mr. A.D. Hande, Advocate for petitioners
Mr. V.S. Kadam, Advocate for respondent.

CORAM : ROHIT B. DEO, J.

DATE : 11th February, 2020

PER COURT :

1. This petition, which is preferred by the plaintiffs in Regular Civil Suit No. 15 of 2008, is argued for admission after four years from the date of the order impugned. In the interregnum, the proceedings are stayed.

2. The order dated 19th March 2016 records that the application preferred by the plaintiffs does not disclose name of the witness and that putting the witness in the witness box abruptly is against the provisions of law. The Trial Court has further found that the plaintiffs appear to be deliberately avoiding the adjudication.

3. It is true that the witness must be ordinarily named in the list of witnesses and that if a witness, who is not named in the list of witnesses is to be examined, the leave of the Court must be obtained. This is in order to avoid the other party being taken by surprise.

4. However, in the factual matrix, in my considered view, following order shall subserve the ends of justice.

O R D E R

I. The parties shall appear before the Trial Court on 17th February 2020.

II. No separate notice shall be necessary.

III. The plaintiffs shall submit the name of the witness, who is proposed to be examined. The witness shall not be amongst, who

are already examined. No witness shall be recalled.

IV. The evidence of the plaintiffs shall be recorded within 15 days from the date of appearance of the parties and it shall be responsibility of the plaintiffs to ensure that the witness is present.

V. The evidence of the defendants shall be recorded in the next 60 days and the suit shall be finally disposed of within 90 days from the date of appearance of the parties.

VI. The permission to examine the witness is subject to plaintiffs' paying Rs. 10,000/- (Rs. ten thousand only) to the defendant as costs. The payment of costs is a condition precedent.

VII. The petition is disposed of in the aforestated terms.

**(ROHIT B. DEO)
JUDGE**

Madkar