

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 WRIT PETITION NO.10340 OF 2019

BHAGWAN GOVINDRAO BHUSALE
VERSUS
MAROTI RAMCHANDRA DESHWALE AND OTHERS

.....
Advocate for Petitioner : Mr. Gopal D Kale
Advocate for Respondent No.1 : Mr. Krishna P. Rodge
.....

CORAM : V. K. JADHAV, J.
DATED : 2nd JANUARY, 2020

PER COURT:-

1. Heard both sides.
2. It appears that the suit came to be instituted for declaration of ownership and possession of suit land Gat No. 287/B admeasuring 2 Hectare 74 R, situated at village Nalgir, Tq. Udgir, district Latur. Though the suit is of the year 2011, it is renumbered as R.C.S. No. 42 of 2018 on its transfer. However, the dispute relates to the immovable property and the petitioner-defendant No.2 is only contesting party. This court at the time of issuing notices to the respondents, directed the petitioner to deposit an amount of Rs.15,000/- before the trial court to show his bonafide and accordingly the petitioner-original defendant No.2 has complied with the said order.
3. Though learned counsel appearing for respondent No.1-

plaintiff has strongly resisted the petition, however, in the alternate he submits that the application for setting aside “No W.S. order” may be allowed subject to payment of cost of Rs.15,000/-, which is already deposited before the trial court.

4. In view of above and considering the dispute pertaining to the immovable property and the petitioner-original defendant No.2 is only contesting party, I proceed to pass the following order:-

O R D E R

- I. The writ petition is hereby allowed.
- II. The impugned order dated 21.6.2019 passed below Exh.45 in R.C.S. No. 42 of 2018 (Old No. 66 of 2011) by the learned Civil Judge, Senior Division, Udgir is quashed and set aside. The application Exh.45 in R.C.S. No. 42 of 2018 (Old No. 66 of 2011) is allowed subject to payment of cost of Rs.15,000/- to be paid to the respondent No.1-plaintiff.
- III. The parties are at liberty to file application before the trial court for expeditious hearing of the suit. The trial court shall consider the said application and shall decide the suit as expeditiously as possible.
- IV. Writ petition is hereby disposed of.

(V. K. JADHAV, J.)