

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

WRIT PETITION NO.11266 OF 2019

RAJESH SAMBHAJI PAWAR
VERSUS
SULBHA VASANTRAO KULKARNI AND OTHERS

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Advocate for Petitioner : Mr. Rathi Swapnil S.
Advocate for Respondents 1,2 : Mr. Kharosekar A.B.

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WITH
CA NO.14063/2019 IN WP/11266/2019

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CORAM : V.K. JADHAV, J.
Dated: January 07, 2020

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PER COURT :-

1. Heard both sides.
2. Learned counsel appearing for respondent nos. 1 and 2/original plaintiffs submits that the respondents/original plaintiffs have no objection if the petition is allowed and the petitioner/defendant is permitted to cross examine the witnesses. It appears that defendant no.3 has adduced the evidence and examined the witnesses. There are conflicting interest inter-se amongst the defendants, however, the petitioner/original defendant no.4's right to cross-

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examine the witnesses of the defendant no.3 is forfeited for the reason that the petitioner/defendant no.4 and his counsel remained absent. Respondent/original defendant no.3 though duly served through the Court notice and thereafter by paper publication, remained absent.

3. Learned counsel submits that, however, directions may be given to the trial court to expedite the hearing of the suit. Learned counsel submits that the respondents/plaintiffs have also filed affidavit-in-reply to that effect.

4. In view of the above and further considering that the matter relates to the immovable property and special civil suit was instituted way back in the year 1998 the petitioner/defendant no.4 should be given one more chance to cross-examine the witnesses. Hence, I proceed to pass the following order.

ORDER

1. Writ petition is hereby allowed.

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2. The impugned order dated 6.8.2019 passed by the learned Civil Judge Senior Division, Nanded below Exh.289 in Special Civil Suit No.462 of 1998 is hereby quashed and set aside.
3. Application Exh.289 is hereby allowed in terms of its prayer clause.
4. Trial Court is hereby directed to decide the suit, as expeditiously as possible, however, preferably within a period of ONE YEAR from the date of this order.
5. Pending civil application also stands disposed off.

(V.K. JADHAV, J.)

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