

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 313 OF 2020

Shaikh Munna s/o Sk. Rashid (Dhobi)
and others

Petitioners

Versus

Latifa Bee w/o Shaikh Ahemad

Respondent

Mr.S.B.Paikrao, advocate for the petitioners.

CORAM : ROHIT B.DEO, J.

DATE : 08/01/2020

PER COURT :

1 The defendants, in suit brought for partition and separate possession, are aggrieved by the order dated 28.08.2019, rendered by the trial Court whereby and whereunder the trial Court has permitted the plaintiff to cross examine defendant no.1 (DW 1) and one Sk.Taher s/o Sk.Imam (DW 2) on payment of costs.

2 I am not inclined to interfere with the discretion, which is judiciously exercised by the trial Court.

3 The submission of the learned Counsel for the petitioners that, in view of the several decisions of this Court, which

rely on the decision of the Hon'ble Supreme Court in the case of **Arjun Singh Vs. Mohindra Kumar**, AIR 1964 SC 993, application was not maintainable, is considered only for rejection.

4 The decision, to which the learned Counsel is referring to, articulate that once the trial is closed for judgment, certain applications would not be entertained.

5 In the present matter, the suit was not fixed for judgment. The trial Court has rightly observed that the suit is fixed for arguments and, therefore, the hearing is not concluded.

6 I am satisfied that, considering that the suit is for partition and separate possession, and share and interest in the immovable property is involved, the order impugned needs no interference.

7 Petition is rejected.

(ROHIT B.DEO)
JUDGE