

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

WRIT PETITION NO.8005 OF 2020

Shivaji s/o. Chhagan Ghate,
Age : 44 years, Occ. Service,
r/o. Waghadi, Tq.Paithan,
Dist. Aurangabad
and others

..Petitioners

Vs.

Sarjerao s/o. Mariba Gaikwad
deceased through L.Rs.
1A) Raju s/o. Sarjerao Gaikwad,
Age : 45 years, Occ. Agri,
Both r/o. Indiranagar, Paithan,
Tq. Paithan, Dist. Aurangabad
and anr.

..Respondents

Mr.N.D.Sonwane, Advocate for petitioners
Mr.S.B.Ghatol-Patil, Advocate for respondent 1A and 2

**CORAM : R.G. AVACHAT, J.
DATE : FEBRUARY 02, 2021**

PER COURT :-

Heard.

2. The challenge in this Writ Petition is to the order dated 12.04.2019 passed by learned Civil Judge, Junior Division, Paithan in R.C.S. No.244 of 2013, whereby he has stayed the suit, being Regular Civil Suit No.244 of 2013.

3. The impugned order reads thus :-

" The Hon'ble High Court of Judicature, Mumbai, Bench Bench at Aurangabad, in Writ Petition No.8424 of 2015 directed that the suit in respect of gairan land shall not be entertained by Civil Court and the aggrieved person shall approach to Hon'ble High Court. Hence, until further direction of Hon'ble High Court in W.P.No. 8424/2015, suit is stayed."

4. A copy of the petition in Writ Petition No.8424 of 2015 and the order passed by the Division Bench of this Court in the said Writ Petition are on record. The communication dated 04.03.2019 made by learned Registrar (Judicial) of this Court indicates that the subject matter of aforesaid Writ Petition is Gairan lands, being Survey Nos. 13 and 175, situated at Pandharpur, Tq. and Dist. Aurangabad. The directions in Writ Petition No.8424 of 2015 given by the Division Bench namely, no Civil Court shall entertain the disputes made in respect of Gairan land in question and the persons having grievance in respect of those lands were expected to approach this High Court. The words appearing in

the order "Gairan land in question", undoubtedly, suggest that the direction given in the order dated 25.02.2019 pertained only in respect of Gairan land being Survey Nos.13 and 175, whereas, the subject matter of the suit No.244 of 2013 is the land in Gat No.62.

5. In my view, therefore, the direction given by the Division Bench vide its order dated 25.02.2019, directing the Civil Court not to entertain the suits in respect of Gairan lands concerned, apply only to the land survey nos.13 and 175. Learned Civil Judge ought not to have stayed the suit vide its order dated 12.04.2019. The impugned order is, therefore, liable to be set aside.

6. The Writ Petition succeeds. It is allowed in terms of prayer clause (B).

[R.G. AVACHAT, J.]