

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO. 7638 OF 2012

BALU@SHIVSHANKAR SHIVAPPA SHETE

VERSUS

NAGNATH MAHARUDRA SHETE DIED THR LRS
MAHADEO NAGNATH SHETE AND OTHERS

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Advocate for Petitioner : Ms Shital V. Salunke
Advocate for Respondent No. 1 : Ms Rekha Choudhari h/f Mr S.S.
Choudhari

CORAM : SANDEEP V. MARNE, J.
DATE : 2nd DECEMBER, 2022

PER COURT :

1. The writ petition is filed challenging the order dated 31.07.2012 passed by the 4th Jt. Civil Judge, Junior Division, Osmanabad rejecting petitioner's application for recalling the witnesses of the plaintiffs for cross-examination. The application was filed in the year 2012. Earlier "No Cross" order was passed in respect of petitioner and they had filed application for recalling of that order which was rejected on 23rd October, 2000. After passage of 12 long years, same application was once again filed in the year 2012 for permission to cross-examination of the plaintiffs' witnesses. This shows casual manner in which petitioner has been defending the suit. The application, in my view has rightly been rejected. On account of filing of such frivolous application as well as the present petition, the trial of the suit has been delayed. The suit pertains to the year 1973. It is pending on account of remand order passed in the year 1983. Even present petition

was dismissed in default in the year 2017. It has been restored today only for the purpose of finally deciding the writ petition.

2. There is no error in the order passed by the trial court in rejecting petitioner's application. Writ Petition is devoid of merits and the same is dismissed with no order as to costs.

3. Petitioner shall be at liberty to withdraw Rs.5,000/- deposited in pursuance of the order dated 18th September, 2012.

4. The trial court is requested to expedite hearing of the suit and make an endeavour to decide the same as expeditiously as possible preferably, within a period of six months from today.

[SANDEEP V. MARNE, J.]

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