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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14020 OF 2019

Vaijaintabai Rohidas Patil and Others

PETITIONERS

VERSUS

Mahadeo Dnyanba Vibhute and Others

RESPONDENTS

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Mr. Anant R. Devakate, Advocate for the petitioners

Mr. Subodh P. Shah, Advocate for respondent No.1

Mrs. G. L. Deshpande, AGP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 4th JULY, 2022

ORDER :

1. The petitioners are aggrieved by the order passed by the 4th Joint Civil Judge, Senior Division, Dhule below Exhibit-88 in Special Civil Suit No. 53 of 2011, thereby rejecting the application filed by the petitioners for setting aside "no cross" orders of original plaintiff and his second witness.

2. At the admission stage, this Court entertained the writ petition only to the extent of "no cross order" dated 10th December, 2018 in respect of witness No.2 of the plaintiff and dismissed the writ petition in respect of two "no cross orders" in relation to plaintiff's evidence. The petitioners were directed to

deposit Rs.10,000/- and the Trial Court was directed to adjourn the proceedings of the suit, until further orders.

3. From the submissions advanced at the Bar, it appears that this order was not brought to the notice of the Trial Court by either of the parties. The Trial Court proceeded with the suit and recalled both the plaintiff as well as his witness No.2 for cross-examination. Now the suit is posted for defence evidence.

4. In view of these peculiar facts, writ petition is allowed in terms of the interim orders dated 20th November, 2019 passed by this Court. The Trial Court shall consider the cross-examination of plaintiff's witness No.2 conducted by the petitioners as a part of the evidence, however, cross-examination of the plaintiff conducted after recalling him, stands deleted from the evidence.

5. The Trial is expedited. The amount of Rs.10,000/- deposited by the petitioners in the Trial Court, be paid to the plaintiff.

[NITIN B. SURYAWANSHI]
JUDGE