

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

6 WRIT PETITION NO.11083 OF 2022

**HEMLATA RAJENDRA SONAWANE AND OTHERS
VERSUS
VAISHALI RAJENDRA SONAWANE AND OTHERS**

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Advocate for Petitioners : Mr. Mukul S. Kulkarni

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CORAM : SANDEEP V. MARNE, J.

DATE : 09-11-2022

PER COURT :

. By the present petition the petitioners, who are original defendant nos.1 to 3, have challenged order dated 21.07.2022 passed by the 5th Jt. Civil Judge Senior Division, Dhule on application below Exh.21 filed by defendant nos.5 and 6 in Special Civil Suit No.67 of 2019. By that order, the application of defendant nos.5 and 6 for setting aside 'no written statement order' has been allowed. It is highly debatable as to how defendant nos.1 to 3 can raise an objection to the application filed by the other co-defendants for setting aside 'no written statement order'. The plaintiffs have not challenged the order dated 21.07.2022. In that view of the matter, I am not inclined to entertain the present petition.

2. The only apprehension that Mr. Kulkarni, learned

advocate for the petitioners (Orig. defendant nos.1 to 3) raises before this Court is that the sole motive of filing an application for setting aside 'no written statement' was to enable filing of a counter claim by defendant nos.5 and 6 against the petitioners. He would question maintainability of the such counter claim filed by one set of defendants against another. In my view, that is an altogether different matter to be decided at an appropriate stage. It is expressly clarified that the objection as to the maintainability of the counter claim filed by the defendant nos.5 and 6 against defendant nos.1 to 3 would be decided by the trial Court independently without being influenced either by order dated 21.07.2022 or by the present order.

3. With the above observations, the writ petition is dismissed.

(SANDEEP V. MARNE, J.)

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