

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

951 WRIT PETITION NO.597 OF 2019

SHRIDHARRAO DYANOBA RODGE THROUGH LRS URMILA D.
I. SHRIDHARRAO RODGE AND ANOTHER
VERSUS
VIKAS DHONDOPANT GADEWAR AND OTHERS

...

Advocate for Petitioners : Mr. Paranjape Prakash S
Mr. PB Salunke, Advocate h/for Mr. Kakde Sunil B.,
Advocate for Resp. No.1

CORAM : PRITHVIRAJ K. CHAVAN, J.
DATE : 25th March, 2022.

PER COURT :-

1. The petitioners, who are original plaintiffs, have challenged an order dated 1st October, 2018 below Exhibit-129 passed by Civil Judge, Junior Division, Sailu, District Parbhani, by which the learned Trial Judge rejected the application of the petitioners to lead further evidence in consonance with an order passed by the same Judge below Exhibit-127 on 21st July, 2018, by which he permitted the petitioners to tender certain documents on record. Relevant part of the order dated 21st July 2018 reads thus, -

"8. Further, most of the documents are the applications made in connection with the mutation entries addressed to the Tahsildar, and those are certified copies and certainly are admissible in the evidence. The objection was raised for placing on record the receipts of agricultural produce. Same can be viewed at the

(2)

time of judgment in the light of evidence. Thus, in the interest of justice the application deserves to be allowed. Needless to say above observations recorded herein are limited to the extent of passing this order only. Hence, the application is allowed.”

2. I heard Mr. Paranjape, learned Counsel for the petitioners and Mr. Salunke, learned Counsel for Respondent No.1.

3. At the outset, it is apparent from the order passed below Exhibit-127 on 21st July, 2018 and the impugned order passed below Exhibit-129 on 1st October, 2018, are contradictory, in the sense, on one hand the learned Judge permitted the petitioners to tender the documents, but by the subsequent order he refused the prayer of the petitioners permitting them to lead further evidence in consonance with the said document. The order impugned, therefore, cannot sustain in law and, therefore, it needs to be quashed and set aside. It is accordingly set aside.

4. The Trial Court shall permit the petitioners (original plaintiffs) to adduce oral evidence in consonance with the observations made in Para 8 of the order passed below Exhibit-127 dated 21st July, 2018. The petitioners shall not adduce any other additional evidence save and except the documents referred herein above.

(3)

5. After concluding the evidence, the learned Judge shall proceed further to dispose of the suit as expeditiously as possible in accordance with law.

6. The petition stands disposed of in aforesaid terms.

(PRITHVIRAJ K. CHAVAN, J.)

BDV