

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

40 WRIT PETITION NO.851 OF 2023

**ASHOK KISAN BHAVAR AND OTHERS
VERSUS
PARASRAM RAMNATH KALSKAR
DIED THROUGH LRS LATABAI PARASRAM KALASKAR AND OTHERS**

...
Advocate for Petitioners : Mr. Balbhim R. Kedar

...
CORAM : SHARMILA U. DESHMUKH, J.

DATE : 25-01-2023

PER COURT :

. Heard.

2. The petitioners are aggrieved by the order dated 13.12.2022 passed by the 3rd Jt. Civil Judge Jr. Division, Paithan below Exh.72 in Regular Civil Suit No.21 of 2004 rejecting the petitioners' application for framing of additional issues.

3. The trial Court while rejecting the application for additional issues has referred to the written statement below Exh.28 i.e. written-statement of defendant nos.8 to 11 but has failed to take into consideration the written-statement of defendant nos.1 to 3 and 5. As such, in my opinion, it is in the interest of justice that the matter be remanded to the trial Court to decide the application filed by the petitioners herein i.e. defendant nos.2, 3 and 5 for framing of

additional issues afresh after considering the written-statement below Exh.23 as well as written statement below Exh.28.

4. In view of the above, the impugned order dated 13.12.2022 is hereby quashed and set aside. The matter is remanded to the trial Court to decide afresh. The trial Court to decide the application below Exh.62 by taking into consideration the written-statements filed below Exhs.23 and 28 within a period of three weeks from today.

5. Writ petition is accordingly disposed of.

(SHARMILA U. DESHMUKH, J.)

GGP