

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

**WRIT PETITION NO.1648 OF 2019**

Bhausahab Babulal Patil And Others

Petitioners

Versus

Karuna Kishor Bhamre

Respondent

Mr. G.R. Syed h/f. Mr. V.P. Raje, Advocate for petitioner.  
Mr. Pratap Mandlik, Advocate for respondent.

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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 27<sup>th</sup> SEPTEMBER, 2023**

**ORDER :**

1. Leave to correct prayer clause.
2. Order passed by learned Civil Judge, Junior Division, Dhule, below Exhibit-40, in Regular Civil Suit No. 4/2015, thereby rejecting the application filed by petitioners/defendants for setting aside no cross order and permission to cross examine plaintiff is impugned in the present petition.
3. Heard the learned advocate for petitioners and learned advocate for respondent. Perused the memo of writ petition, annexures thereto and the impugned order.
4. Learned advocate for respondent has vehemently

opposed the prayer of petitioners stating that petitioners are negligent in prosecuting the matter. Earlier also, no cross order was passed against petitioners and they have failed to comply the condition. Again, petitioners were negligent in prosecuting the suit, therefore, Trial Court is justified in passing the impugned order.

5. Perusal of record indicates that suit is filed challenging the order passed by Tahsildar under section 143 of Maharashtra Land Revenue Code. Substantial rights of parties are involved in the matter, and therefore, fair opportunity needs to be given to petitioners to contest the suit on merits. In that view of the matter, though, petitioners are negligent in prosecuting the matter, in the interest of justice, this Court is inclined to allow the writ petition. In the result, following order:-

**ORDER**

- (i) Writ petition is allowed.
- (ii) Impugned order dated 13.11.2018, passed by learned Civil Judge, Junior Division, Dhule, below Exhibit-40 in Regular Civil Suit No. 4/2015, is hereby quashed and set aside.
- (iii) Application Exhibit-40 is allowed.

- (iv) Considering the fact that the suit is of the year 2015, hearing of the suit is expedited. Trial Court shall decide the suit expeditiously and in any case within six months from the date of receipt of writ of this order. Parties to co-operate.
- (v) Respondent is at liberty to withdraw the amount of Rs. 5,000/- deposited by petitioners along with accrued interest, if any.

**[NITIN B. SURYAWANSHI, J.]**