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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6636 OF 2023

Ashok Kunjilal Agrawal and Others

PETITIONERS

VERSUS

Shantilal Kunjilal Agrawal and Others

RESPONDENTS

.....
Mr. Mahesh Ramnath Sonawane, Advocate for the petitioners
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th JUNE, 2023

ORDER :

1. Petitioners are aggrieved by the order passed by learned Joint Civil Judge, Junior Division, Sillod below Exhibit-41 in Regular Civil Suit No. 252 of 2016, thereby rejecting the objection taken by the petitioners for the questions which were asked in the cross examination of the plaintiff.
2. The suit is filed by the petitioners – plaintiffs for perpetual injunction against the defendants. Defendant No.1 is the real brother of plaintiffs No.1 and 2.

3. At the time of recording of the evidence, advocate for the defendants asked a question to plaintiff No.1 in his cross examination, about family relations. The said question was objected by the learned advocate for the plaintiffs, on the ground that the said question is out of pleadings and is not relevant for the decision of the suit. The said objection is rejected by the Trial Court, on the ground that taking into consideration the nature of the question and pleadings of the parties, said question needs to be recorded, keeping in view the principles of the natural justice and for effective adjudication of the dispute. The petitioners are aggrieved by this order.

4. Heard learned advocate for the petitioners. Perused the memo of the writ petition, the documents annexed along with the same and the impugned order.

5. Perusal of the record indicates that the Trial Court has rightly recorded a finding that in view of the principles of natural justice, considering the pleadings of the parties and for effective adjudication of the dispute between the parties, the said question was allowed to be asked. No fault is found with the approach of the learned Trial Judge, while passing the impugned order. No case is made out by the petitioners to warrant interference in the impugned order, in the extraordinary writ

Jurisdiction. There is no merit in the writ petition and the petition is, therefore, dismissed.

6. It is, however, made clear that relevancy of the said question can be contended by the petitioners at the time of final arguments and the said objection shall be considered by the Trial Court at the time of final adjudication of the suit.

[NITIN B. SURYAWANSHI]
JUDGE