

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10935 OF 2023

Shivaji Laxman Sagar and Others

PETITIONERS

VERSUS

Vikram Vithoba Sagar and Others

RESPONDENTS

.....

Mr. Vinayak S. Bedre, Advocate for the petitioners

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 4th SEPTEMBER, 2023

ORDER :

1. The petitioners are aggrieved by the order dated 25th July, 2022 passed by learned 3rd Joint Civil Judge, Senior Division, Sangamner, thereby rejecting application Exhibit-26 filed by the petitioners under Order VII, Rule 11 of the Civil Procedure Code, in Regular Civil Suit No. 104 of 2021.

2. Respondents – plaintiffs have filed the suit challenging mortgage deed dated 9th April, 1987 and seeking redemption of the mortgage. The petitioners – defendants filed application Exhibit-26, claiming that the suit is barred by limitation. The Trial Court has rejected the application, holding that the issue of limitation is a mixed question of fact and law and in the plaint,

the plaintiffs have also pleaded that Rahibai / Executant of the sale deed had no right to execute the sale deed and, therefore, it is necessary to record evidence before arriving at any conclusion.

3. Having heard the learned advocate for the petitioners and on going through the memo of writ petition, annexures and the impugned order, this Court is of the opinion that the Trial Court has rightly exercised its discretion and has passed a well reasoned order, while rejecting the application filed by the petitioners.

4. There is no illegality or perversity in the order impugned in the present petition. No case is made out by the petitioners to exercise extraordinary writ jurisdiction to cause interference in the impugned order. Writ petition being devoid of any merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE