

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11619 OF 2023

Rajendra Laxminarayan Jaiswal
and orders

.... Petitioners

Versus

Nandranibai W/o Harinarayan Jaiswal
and others

.... Respondents

.....
Mr. M.R. Sonawane, Advocate for the Petitioners
Mr. Ruchir S. Wani, Advocate for Respondent Nos. 1 to 3
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 15th September, 2023

ORDER :

1. Petitioners are aggrieved by order dated 27/07/2023 passed by Learned 14th Joint Civil Judge, Junior Division, Aurangabad, below Exhibit-162 in Regular Darkhast No.54 of 2017, thereby rejecting the application filed by the petitioners/objection petitioners for setting aside evidence close order dated 11/07/2023 and for permission to examine another witness namely, Govind Shivlingappa Echate.

2. Heard learned advocate for the petitioner and learned advocate for respondent Nos.1 to 3. Perused the writ petition memo, annexures thereto, and the impugned order.

3. Objection petitioners have already examined seven witnesses in the matter, and order was passed on 24/04/2023, closing their evidence. Thereafter, again the petitioners moved application Exhibit-149 and prayed for setting aside the evidence close order, mentioning therein that the petitioners will examine only two witnesses i.e. C.A. Mr. Jaju and Ajay Jaiswal, and therefore, the last chance to be given to the petitioners. The Executing Court therefore set aside the order dated 24/04/2023 and permitted the petitioners to examine those two witnesses. Accordingly, petitioners moved an application for directions to the Income Tax Department to place on record assessment of the Harinarayan Jaiswal of the year 2003-04 and 2004-05. The said application is also rejected by the Court on 11/07/2023. Thereafter, an application filed by the petitioners on 14/07/2023 praying for staying the execution proceeding till the decision of appeal or writ petition is also rejected by the Executing Court on the same day, and the evidence of the petitioners closed. Thereafter, argument of respondent Nos. 1 to 4/decree holders was also heard and the matter was adjourned for argument of petitioners. At this stage, again the present application is moved for setting aside evidence close order.

4. In the backdrop of facts stated above, the Executing Court is right in rejecting the application filed by the petitioners holding that, already seven witnesses are examined by the petitioners and though the matter is time bound, the petitioners are trying to prolong the matter. The order impugned in the present petition is a well reasoned order. There is no illegality or perversity in the order impugned in the present petition. No case is made out by the petitioner to exercise extra ordinary writ jurisdiction. The writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane