



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

WRIT PETITION NO. 15322 OF 2023

Vasant Yashwant Palande
and another

.. Petitioners

Versus

Jagannath Karbhari Sadafale
and others

.. Respondents

Shri Bhagwan A. Husale, Advocate for the Petitioners.

CORAM : SHAILESH P. BRAHME, J.
DATE : 14TH DECEMBER, 2023.

FINAL ORDER :

. The grievance of the petitioners is that they are original plaintiffs and their application U/O XXVI Rule 9 of the Code of Civil Procedure has been rejected by the Trial Court. The application is made at pre-trial stage. In view of settled position depicted from the judgments in the matters of Sarjerao Nathu Bangar Vs. Namde in Writ Petition No. 13441 of 2019 and Saitaram Suklal Patil Vs. Vasudeo Suklal Patil Writ Petition No. 9626 of 2016, the parties can resort to Order XXVI Rule 9 of the C. P. C. after commencement of Trial or recording of the evidence.

2. I do not see any reason to interfere in the impugned order below Exhibit 06. The writ petition is disposed of, however, the

petitioners shall have liberty to take recourse to Order XXVI Rule 9 of the C. P. C. after the commencement of the Trial or recording of evidence.

[SHAILESH P. BRAHME, J.]

bsb/Dec. 23