

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1463 OF 2023

~~Mulji-Tejasi-Gosar-~~

Since Deceased Through Legal Heirs

Vinod Mulji Gosar and Ors.

.. Petitioners

Versus

~~Balkrishna Trimbak Wani (Pingle)~~

Since Deceased through Legal Heirs

Kailas Balkrishna Pingale Wani and Ors.

.. Respondents

-
- Mr. Anilkumar Patil a/w. Ms. Sonal Naik, Advocate for Petitioners.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 07, 2023.

P.C.:

- 1.** Heard Mr. Patil, learned Advocate for the Petitioners.
- 2.** Perused the impugned order which is at page No.22A passed below Application filed by Defendant No.14. The Application which is at Exhibit-D page No.40 to the Writ Petition was filed by Defendant No.14 seeking to reopen the cross-examination of the Plaintiffs' witness.
- 3.** Admittedly, Petitioners are the legal heirs of deceased Defendant No.14 who had filed the original Application Exhibit-319. It is seen that the learned Trial Court has held that the Application is devoid of any new points in respect of which the cross-examination of the witness is required to be reopened. In that view of the matter, the learned Trial Court concluded that the trial cannot be reopened until and unless a new case is put up.

4. Mr. Patil, learned Advocate for the Petitioners has drawn my attention to the Affidavit-in-Reply / say of the Plaintiffs which is filed below Exhibit-322 and contended that reading of the averment made in paragraph No.11 would enure to the benefit of Defendants since the Plaintiffs have not raised any objection for the conduct of the cross-examination to the limited extent.

5. Be that as it may, the say filed by the Plaintiffs in reply to the Application below Exhibit-319 can be heard by the learned Trial Court at the time of hearing and final arguments without being influenced by the impugned order dated 23.11.2022. Impugned order is however sustained. All contentions of parties are kept open.

6. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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