



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

938 WRIT PETITION NO. 2793 OF 2020

1. Kishan s/o Lachnna Reddy Mare,
2. Madhav s/o Lachnna Reddy Mare,
3. Namdev s/o Lachnna Reddy Mare.

...Petitioners

Versus

1. State of Maharashtra,
2. Tahsildar,
3. Special Land Acquisition Officer,
4. Namdev s/o Ramchandra Komple.

...Respondents

...
Advocate for the Petitioner : Ms. Madhaveshwari Mhase h/f Lex Aquila
AGP for Respondents-State : Mr. B. A. Shinde
Advocate for Respondent No.4 : Mr. V. D. Gunale
...

CORAM : R. M. JOSHI, J.

Dated : June 19, 2024

PER COURT :-

1. Heard. By consent of both sides heard finally at the stage of admission.
2. This petition involves short point for consideration as to whether merely because the defendant in the written statement has shown himself owner of the suit property, issue is required to be framed in that regard even in absence of filing any counter claim.
3. Perusal of the record indicates that suit is filed by the plaintiff

claiming himself owner of the suit properties. The said contention is refuted by the defendant No.4. In the written statement it is specifically averred that he is the owner and in possession of the suit property.

4. Learned Counsel for the petitioners submits that the contention raised by the defendant that he is owner and in possession of the property, issue is required to be framed by the Trial Court in that regard. In the facts and circumstances of the case, this Court is not agreeable to this contention for the reason that there cannot be a declaration by the Trial Court with regard to the ownership of the defendant No.4 in absence of any counter-claim being filed.

5. In view of the above, there is no reason to cause interference in impugned order. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

vj gawade/-.