



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13529 OF 2017

1. Purushottam S/o Rupchand Narkhede,
Age : 61 years, Occupation : Agri,
2. Alka W/o Purushottam Narkhede,
Age : 59 years, Occupation : Household,
Both R/o : Salve, Tq. Dharangaon,
Dist. Jalgaon

.... **Petitioners**

Versus

Mahendra Pandurang Chaudhari
Age : 38 years, Occupation : Business,
R/o Bhavasar Galli, Dharangaon,
Tq. Dharangaon, Dist. Jalgaon

.... **Respondent**

...
Advocate for the Petitioners : Mr. S. S. Patil
Advocate for Respondent : Mr. S. D. Hiwrekar
...

CORAM : SACHIN S. DESHMUKH, J.

Date : 3rd October, 2025

ORDER :-

1. The petitioners raised a challenge to the order dated 31.08.2017 rendered by the learned 6th Joint Civil Judge Senior Division, Jalgaon, below Exh. 63 in Special Civil Suit No. 40 of 2014, rejecting the application presented by the petitioners for framing of additional issues. The suit is instituted by the plaintiff / respondent herein for declaration and specific performance against

the defendants / petitioners herein.

2. The learned counsel for the petitioners submits that there is a specific pleading in the written statement in relation to the status of respondent / original plaintiff as non-agriculturist. Therefore, the Trial Court has committed an error in rejecting the application for framing of additional issues. Hence, prayed to allow the petition.

3. Per contra, the learned counsel for the respondent supported the impugned order submitting that the issues were already framed and the Trial Court is justified in rejecting the application of the petitioner to frame additional issues. Hence, prayed for rejection of the petition.

4. Heard the learned counsel for respective sides and perused the record. The petitioners the original defendants in the suit and have submitted written statement before the Trial Court. In paragraph No. 10 of the said written statement, specific averment is made that the plaintiff is not an agriculturist. As such, the plaintiff has no right to purchase the agricultural land.

5. The aforesaid paragraph unequivocally indicates and

establishes the fact that there is a specific pleading in relation to the status of the plaintiff. The Trial Court, however recorded a finding that there is no pleading in the written statement regarding status of the plaintiff, which is factually incorrect.

6. Nonetheless, order XIV of CPC obligates the Court to frame the issue when material proposition either of fact or law is affirmed by one party and denied by the other side. Admittedly, in the present case, the petitioners herein categorically denied the asserted status of the respondent. As such, it was incumbent upon the Trial Court to frame the necessary issue/s.

7. In the light of specific pleading in relation to the status of plaintiff as pointed by the petitioners and statutory provisions, framing of an additional issue was rather necessary since the same is not considered by the Trial Court. Therefore, writ petition deserves to be partly allowed. Resultantly, following order :-

ORDER

- (a) Writ petition is **partly allowed**.
- (b) The impugned order dated 31.08.2017 rendered by the learned 6th Joint Civil Judge Senior Division, Jalgaon below Exh. 63 in Special Civil Suit No. 40 of 2014, is quashed and set aside.

- (c) The Trial Court is directed to reconsider the application presented by the petitioners for framing of additional issue afresh.
- (d) Considering the fact that the suit is of the year 2014, Trial Court to decide the suit expeditiously, preferably within a period of from the date of receipt of the order.
- (e) No order as to costs.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi