

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5163 OF 2015

Pankaja B. Bhatt .. Petitioner
vs.
Bhavesh J. Bhatt (since deceased)
Pragna B. Bhatt & Ors. .. Respondents

Mr. S. N. Vaishnawa with Ms N. J. Mukherjee and Mr. Anil Chauhan i/b. M/s. N. N. Vaishnawa & Co. for Petitioner.
Ms N. V. Parikh for Respondents.

CORAM : M. S. SONAK, J.

DATE: 11 JUNE 2015

P.C. :-

- 1] **Not on board. Upon production taken on board.**
- 2] Heard the learned counsels for the parties.
- 3] The petitioner, the original plaintiff desires to prove certain documents, including *inter alia* share certificates and other society records. For this purpose, the petitioner examined the Manager of the society as P.W. 2. By the impugned order dated 9 April 2015, the learned Small Causes Court has sustained the objection raised by and on behalf of the respondents that the witness is not the author of the documents and that the documents do not bear his signature.
- 4] The learned counsel for the petitioner contends that in so far as share certificates and other society records are concerned, it is not possible at this point of time to produce the actual persons who may have signed the share certificate or the society records.

The Manger of the society is competent to depose to said documents.

5] On the other hand Ms Parikh, the learned counsel for the respondents submitted that the Manager in the present case had no authority to depose on behalf of the society. Ms. Parikh contends that the proper officers of the society to depose in such a matter and with regard to such documents would be either the Chairman or the Secretary of the society.

6] There is substance in the contention of Ms. Parikh. In matters such as this, although it may not be possible at this point of time to examine office bearers who may have actually signed the share certificates or other society records, it is necessary to examine the duly authorized office bearers of the society and not merely the Manager of the society.

7] The impugned order, therefore does not deserve to be interfered with. The impugned order in any case, does not preclude the petitioner from examining duly authorized office bearers of the society, if necessary by issuing summons to them.

8] With the aforesaid observations, the impugned order is not interfered with. This petition is accordingly dismissed. There shall be no order as to costs.