

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

APPEAL FROM ORDER NO. 1076 OF 2015
WITH
CIVIL APPLICATION NO. 1408 OF 2015
IN
APPEAL FROM ORDER NO. 1076 OF 2015

Smt. Sulochana Girjappa Hotkar & Anr .. Appellants
Vs.
Mr. Ramesh Tulsiram Sonawane & Ors. .. Respondents

Mr. Surendra G. Mittal for the Appellant.
Ms. Trupti J. Gohil for the Respondents.

CORAM : **MRS. ROSHAN DALVI, J.**
DATE : **29th OCTOBER, 2015.**

P.C.

1. Rule. Made returnable forthwith.
2. The application for comparing signatures under Section 76 of the Indian Evidence Act, 1872 came to be rejected under the impugned order. Strictly speaking an appeal is not maintainable therefrom as the order does not finally determine the rights of the parties. The suit, in which the order is passed, is of 2004. 93 dates of hearing have gone by. 10 years have passed before the application came to be made. Verification of the signatures is required for verifying the signatures on the plaint, vakalatnama, memorandum of address, the affidavit in support of the Notice of Motion etc. Defendant No.1 would require to prove his case upon various aspects including verification. The signatures may be circumstantially proved or disproved. The entirety of the evidence would have to be seen. Only the application for verification would not be material for the disposal of the suit. The entire appreciation of the evidence made at the time of the trial may be challenged in appeal including the fact of refusal to verify signatures independently and separately. Consequently the order does not deserve to

be modified or set aside. The Appeal from Order is dismissed. The trial shall proceed without any further adjournments. The Court is informed that the suit is kept for argument on Saturday, 31st October, 2015. Hence the Advocate on behalf of the defendants states that a fix date be given thereafter for argument. Learned Judge may give one fix date for argument to both the parties. Both the parties shall proceed with the argument without further adjournments thereafter.

3. The Appeal from Order and the Civil Application are disposed of accordingly.

(ROSHAN DALVI J.)