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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

WRIT PETITION NO. 4242 OF 2016

Wenceslaus H. Gonsalves
Clovis Gonsalves and Ors.

... Petitioners.

V/s.

Hill Dream Co-operative Housing
Society Ltd. and Ors.

... Respondents.

Mr. Ketan Parekh i/b. K.R. Parekh for the Petitioners.
None for the Respondents.

CORAM : N.M. Jamdar, J.

10 October, 2016.

Oral Order :-

Not on board. Taken on production board by way of
praecipe.

2. The Petitioners challenge the order passed by the learned
City Civil Court Judge permitting the Respondents – Plaintiffs to
lead additional evidence. There is no appeal nor any revision
provided against such interlocutory order. The scheme of the Code
of Civil Procedure postulates that the challenge to such orders are to

be kept open after the trial is concluded, in the appellate proceedings. As far as the prejudice to the Petitioners is concerned, it is always open to the Petitioners to cross-examine the Respondents – Plaintiffs in respect of the additional evidence. The power under Article 227 of the Constitution of India is not to be used to correct every error of the Civil Court.

3. The challenge to the impugned order is kept open to be considered as per Section 105 of the Code of Civil Procedure. The Writ Petition is accordingly disposed off with the above clarification.

(N.M. Jamdar, J.)