

Sequeira

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

WRIT PETITION NO. 7542 OF 2016

M/s.Mittal Developers & ors.

.. Petitioners

Vs.

Mrs.Savitri Premji Thakkar

.. Respondent

Mr.R.V.Sipahimalani, for Petitioners.

Mr.P.J.Thorat i/b S.K.Jain & Associates, for the Respondent.

***CORAM : N.M.Jamdar, J.
Thursday, 22 September 2016.***

P.C. :

By this Petition, Petitioners challenge the order dated 31 August 2015 passed by the learned City Civil Court Judge Mumbai, below Exhibit 7 in Summary Suit No.4248 of 2008 rejecting the application of the Petitioner taken out on the ground that Plaintiff's witness has no authority to depose.

2. The learned Civil Judge has reached a conclusion that the power of attorney is duly authorised and has personal knowledge. Though the learned counsel for the parties have sought to advance various contentions as regards the legality of the order it has to be borne in mind that legislature has consciously not provided an appeal or a revision against such orders and the legality of such interlocutory orders is kept open in the appeal proceedings by virtue of section 105

of the Code of Civil Procedure. It is only in very exceptional circumstances where there is flagrant abuse of procedure or utter failure of justice that this Court exercises power of superintendence. None of these situations exist therefore, keeping contentions of the Petitioner open in the appeal proceedings under Section 105 of the Code, after the conclusion of the trial, the Writ Petition is disposed of.

(N.M.Jamdar, J.)