

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

APPEAL FROM ORDER NO.686 OF 2015

Mrs. Devyani Laxmichand Vira : Appellant.
Versus
Laxmichand Lalji Poladia : Respondent

**ALONG WITH
APPEAL FROM ORDER NO.727 OF 2015**

Laxmichand Ratanshi Rambhia : Appellant.
Versus
Laxmichand Lalji Poladia : Respondent

**ALONG WITH
APPEAL FROM ORDER NO.774 OF 2015**

Mayank Laxmichand Vira : Appellant.
Versus
Laxmichand Lalji Poladia : Respondent

**ALONG WITH
APPEAL FROM ORDER NO.943 OF 2015**

Mrs. Reena Rishabh Shah : Appellant.
Nee Reena Laxmichand Vira
Versus
Vipul Laxmichand Poladia : Respondent

Mr. Rajendra Thakkar for the Appellants in all the Appeals from Order.

CORAM : R. M. SAVANT, J.
DATE : 05th July 2016

P.C.

1 The above Appeals from Order take exception to the orders all dated 27/01/2015 passed by the Trial Court i.e. the learned Judge, City Civil Court, Greater Bombay. By the said orders, the Notices of Motion being

Nos.3887 of 2014, 3888 of 2014 and 3889 of 2014 and 3886 of 204 for restoration of the Suits in question came to be dismissed. The ground on which the said Notices of Motion have been dismissed can be found in paragraph 5 of the said orders which for the sake of ready reference is reproduced herein under :-

“The suit was drafted and lodged by Advocate Mr. Paras Vira as plaintiff's Advocate and his Vakaltnama still exists. Advocate Mr. Paras Vira has not withdrawn his appearance as an Advocate, till at this moment. Presently he cannot act as C.A. of plaintiff, therefore his supporting affidavit, upon which the Notice of Motion is based can not be acted upon. According to me, Advocate Mr. Paras Vira being an Advocate of the plaintiff, can not act in dual capacity i.e. an Advocate and C.A. of Plaintiff. Therefore, on this sole ground, I am decline to grant relief asked for. Even otherwise, absolutely there is no evidence indicating that plaintiff or plaintiff's earlier C.A. were bed-ridden and unable to lead evidence. For the reasons narrated herein above the Notice of Motion is dismissed with costs and disposed of.”

2 The learned counsel appearing on behalf of the Appellants in each of the above Appeals from Order Shri Rajendra Thakkar states that recording made in the impugned orders that the vakalatnama of Advocate Shri Paras Vira still exists is erroneous in view of the fact that the vakalatnama had been withdrawn by Advocate Shri Paras Vira and Advocate Shri Swapnil Kothari had filed his vakalatnama for the Plaintiff in each of the suits. The learned counsel for the Appellants Shri Rajendra Thakkar further states that in the year 2014 he has filed his vakalatnama on behalf of the Plaintiff in all the suits and had

appeared for the Plaintiffs in the above Notices of Motion. It is also his submission that there is no impediment for the ex-advocate to be witness of the Plaintiff or file affidavit as Constituted Attorney of the Plaintiff.

3 If there is an error in the factual recording made in the impugned orders, it is for the Appellants to file an appropriate applications for review of the impugned orders. If any such application for review is filed by the Appellants, needless to state that the concerned Judge of the City Civil Court, Greater Bombay would try the review applications on their own merits and in accordance with law. If the issue of delay arises, the fact that the Appellants were pursuing the instant Appeals from Order can be urged by them before the Trial Court. With the aforesaid directions, the above Appeals from Order are disposed of.

[R.M.SAVANT, J]