

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Writ Petition NO. 11646 OF 2015

M/S SALSETTE PARSIS (BLDG. NO. 3)
CHS LTD. AND ANR ...Petitioners

Versus

M/S. PERSEPOLIS CONSTRUCTION
COMPANY PVT. LTD. AND ORS ...Respondents

WITH
Writ Petition NO. 1511 OF 2016

M/S SALSETTE PARSIS (BLDG. NO.3)
CHS LTD. AND ANR ...Petitioner(s)

Versus

M/S. PERSEPOLIS CONSTRUCTION
COMPANY PVT. LTD. AND ORS ...Respondent(s)

....

Mr.Abhijeet J. Kandarkar, Advocate for the Petitioners.

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CORAM : R. G. KETKAR, J.

DATE : 18th FEBRUARY, 2016

P.C.

1. Heard Mr. Abhijeet Kandarkar, learned Counsel for the petitioners in both the Petitions.

2. Writ Petition No.11646/2015 is instituted by the petitioners, hereinafter referred to as 'plaintiffs', challenging the judgment and order dated 1.11.2014 passed by learned Judge,

presiding over Court Room No.7, City Civil Court at Dindoshi, Borivali Division, Mumbai in Notice of Motion No.1518/2013 in L.C. Suit No.7576/2000. By that order, learned trial Judge dismissed the Motion taken out by the plaintiffs for recalling the order dated 27.6.2013 in which order, learned trial Judge recorded that the cross-examination of DW-1 is over and Advocate for defendant No.1 orally closed the evidence. Rest of the defendants were directed to serve copy of affidavit and documents well in advance on the other side if they want to lead evidence.

3. Writ Petition No.1511 of 2016 is filed by the plaintiffs challenging the judgment and order dated 27.11.2015 passed by learned trial Judge rejecting application Exh.27 taken out by the plaintiffs for marking the documents in the compilation of Exh.21 by giving Exhibit number so that they can be referred to with respect to their exhibit numbers at the time of arguments.

4. Mr. Kandarkar submitted that the evidence of the plaintiffs was over on 27.11.2006. On 27.7.2011, the plaintiffs filed application Exh.20 and filed compilation of documents obtained under the Right to Information Act, 2005 as also

certified copies from the Charity Commissioner, Municipal Corporation of Greater Mumbai and Registrar of Co-operative Societies pertaining to the suit. Request was made for taking the documents produced along with application on record. Pursuant to the order passed by the learned trial Court below Exh.20 the plaintiffs deposited sum of Rs.1000/-. He submitted that on 27.6.2013, learned trial Judge declared that the cross-examination of DW-1 is over and also Advocate for defendant No.1 orally closed the evidence. He submitted that as the plaintiffs' evidence was over on 21.11.2006, subsequently by application dated 27.7.2011 Exh.20 the documents are taken on record, plaintiffs will take out application in trial Court seeking permission to prove the contents of these documents and learned trial Judge may be directed to pass appropriate order thereon.

5. Upon taking instructions from petitioner No.2 who is present in Court, he seeks permission to withdraw these petitions with liberty to take out application for proving the contents of the documents which are produced along with application dated 27.7.2011. He placed on record photocopy of

PAN Card of petitioner No.2, which is taken on record and marked 'X' for identification.

6. On the motion made by Mr. Kandarkar, the Petitions are allowed to be withdrawn with liberty as prayed for. All the contentions of the respondents are expressly kept open. Learned trial Judge shall pass appropriate orders on such applications in accordance with law. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)