

M/s. Apple and others	...	Petitioners
Vs.		
Mulchand Ramji Saiya and another	...	Respondents

CORAM : R. G. KETKAR, J.
DATE : JANUARY 20, 2016

Not on Board. At the request of Mr. Aiyā, taken up for admission.

3. By this Petition under Article 227 of the Constitution of India, petitioners, hereinafter referred to as defendants, have challenged the judgment and order dated 20.10.2015 passed by the learned Judge, City Civil Court, Greater Bombay below exhibit-22 in Summary Suit No.3209 of 2008 (High Court Suit No.228 of 2008). By that order, the learned trial judge rejected the application made by the defendants for obtaining handwriting expert's opinion regarding the signatures appearing on the promissory notes at exhibits 10, 11 and 12 (24.12.2004, 14.01.2005 and 22.06.2005).

4. Mr. Aiya invited my attention to paragraphs 5 and 8 of the reply dated 19.08.2015 filed by the plaintiff. In paragraph 5, plaintiff asserted that he has no objection for allowing the application of the defendants, if the defendants place on record admitted signature samples. In paragraph 8, plaintiff prayed for calling entire record of the Current Account No.200286 maintained with Cosmos Co-operative Bank

Limited, Ranade Road, Dadar (W), Mumbai with specimen signatures of the partners of the defendant No.1.

5. He submitted that instead of calling for entire record of the said bank account, only documents where signatures of petitioners No.2 and 4 appear, may be called for. Petitioners No.2 and 4 are also ready and willing to submit passport and PAN card where their signatures appear for sending it to the handwriting expert. Mr. Aiya, upon taking instructions from petitioner No.4 - Atul Jethalal Kaka, who is present in the Court, seeks leave to withdraw this Petition with liberty to file review application requesting the Court to call only for the documents containing signatures of petitioners No.2 and 4 from Cosmos Co-operative Bank Limited as also for sending signatures of Passport and PAN card of petitioners No.2 and 4 along with promissory notes at exhibits 10, 11 and 12 (24.12.2004, 14.01.2005 and 22.06.2005). He has tendered photocopy of the PAN Card of petitioner No.4, which is taken on record and marked 'X' for identification.

6. In view thereof, on motion made by Mr. Aiya, Petition is allowed to be withdrawn with liberty to file review application in the aforesaid terms. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab