

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

WRIT PETITION NO. 4332 OF 2017

Bin Hussain Stud Farm Pvt. Ltd. & Anr.

...Petitioners

Versus

Mr.Jagdish Motilal Muttha & Ors.

...Respondents

.....

Mr.Avinash Joshi a/w Mr.Shailendra Aglave i/b. M/s. Mulla and Mulla
and Craigie Blunt and Caroe for the Petitioners.

.....

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JUNE 30, 2017

P.C. :

1. Not on board. Upon mentioning, taken on board.
2. Rule. Rule made returnable forthwith. By consent, petition is heard finally and disposed of at the stage of admission.
3. This petition is directed against the order dated 01.02.2017 passed by the learned Judge, Small Causes Court, Pune in Civil Suit No. 473 of 2007 thereby rejecting the application below 228 in Civil Suit No. 473 of 2007 filed by the petitioners/ original defendants.
4. The respondents/ original plaintiffs had filed the Suit for specific performance of the contract. In the said Suit, the trial Court had directed to produce the original registers maintained by the defendant company, as the application moved by the respondents/original plaintiffs. Therefore, two original registers were produced and inspection of the said registers were taken by the respondents/original plaintiffs. Thereafter, the certified copies of those registers were also

produced before the trial Court. Again, the application below- 225 was moved by the respondents/original plaintiffs to take original registers on record, as they could not examine other witnesses at the time of examination. The original registers will be required during the evidence of those witnesses. The learned trial Judge has allowed the said application below Exhibit 225. Thereafter, the petitioners/defendants have moved the application below Exhibit 228 requesting the trial Court to recall the order passed below Exhibit 225, as the documents are not the original documents and they are not required to be produced before the trial Court.

5. The learned counsel for the petitioners has submitted that the certified copies of the documents are on record. Those original registers maintaining the names of the Directors are required to be maintained under section 170 of Companies Act, 2013 and the said registers are also required to be maintained for the purpose of income tax. He has further submitted that the trial Court ought to have refused the application and directed the petitioners/defendants to produce those registers, as and when required.

6. Heard submissions. Perused the impugned order. There is no illegality in the order passed by the learned trial Judge. There may be some inconvenience to the petitioners/original defendants in producing the original registers in the trial Court. However, this inconvenience cannot be an illegality. There is no need to issue a notice to the respondents/original plaintiffs for hearing.

7. The learned counsel for the petitioner has further submitted that the respondents/original plaintiffs has not given a list of witnesses in the trial Court. He has further submitted that as soon as the list of the

witnesses is given by the respondents/original plaintiffs, immediately on the same date he will produce the registers before the trial Court. This submission appears to be fair. Though in the absence of the respondents/original plaintiffs, I pass the following order.

ORDER

- (i) Writ Petition is summarily dismissed.
- (ii) However, the trial Court may ask the respondents /original plaintiffs to furnish the list of the witnesses, as the petitioners /original defendants undertake to produce those registers on the same date before the trial Court.

8. In view of the above, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)