

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

WRIT PETITION NO.3556 OF 2017

Shri.Govinddas Madanmohan Pandit & Ors.

...Petitioners

Versus

Lasalgaon Vidya Prasarak Mandal
Sanchalit, Saraswati Vidya Mandir
Through Its Chairman
Shri Ashok Bhagwat Holkar

...Respondent

.....

Mr.Sagar Kasar for the Petitioners.

Mr.Rameshwar N. Gite for the Respondent.

.....

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JULY 06, 2017

P.C. :

1. Rule. Rule made returnable forthwith. By consent, petition is heard finally and disposed of at the stage of admission.
2. This petition is directed against the order dated 19.01.2017 passed by the learned Civil Judge, Senior Division, Niphad, Nashik thereby rejecting the application below Exhibit 87 in Regular Civil Suit No. 124 of 2013.
3. The learned counsel for the petitioners/plaintiffs has submitted that the Suit was filed for permanent injunction for restraining the

respondents/defendants from creating obstruction and making construction over the suit property and also claimed injunction restraining the respondents/ defendants from causing obstruction for having access to the suit property and for completing the fencing work undertaken by the respondents/defendants. He has produced the photographs of the suit property and accordingly has mentioned in the affidavit-in-chief that the petitioners/plaintiff took the photographs. However, the learned Judge has rejected the said application holding that the petitioners/plaintiffs did not file any affidavit of the person, who took the photographs.

4. The learned counsel for the respondents/defendants vehemently opposed this petition and supported the order passed by the learned Judge. He has further submitted that the petitioners/plaintiffs ought to have got those photographs, but the same were not exhibited at the time of execution of the examination-in-chief. However, the petitioners/plaintiffs kept those photographs till the final stage of the Suit and therefore, the trial Court has rightly rejected the said application.

5. Perused the impugned order and the affidavit-in-examination-in-chief. The petitioners/plaintiffs in paragraph no.6 of the affidavit-in-examination-in-chief have mentioned that they themselves took the

photographs of digging pits by the respondents/defendants on the suit property and developed it. It appears that inadvertently the photographs were not exhibited. The learned Judge has lost the sight of this portion recorded in examination-in-chief of the petitioners/plaintiffs. Under such circumstances, these photographs are to be exhibited and the parties may argue the contents of the photographs at the stage of admission.

6. Rule made absolute in terms of prayer clause (a).
7. In view of the above, Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)