

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

WRIT PETITION NO. 5083 OF 2016

1.Shri Isamil Rahim Modi and
Anr.

Petitioners

Vs

1.Shri Vijaysinh Gulabrao Jagtap,
since deceased, through his
legal heirs:
1-a Shri Ajit Vijaysinh Jagtap and
Ors.

.. Respondents

Mr. Manoj Patil, Advocate for Petitioners.

Mr.Vaibhav R. Gaikwad, Advocate for Respondents no.1(a) to 1(e).

CORAM : R.G.KETKAR,J.

DATE : 20/02/2017

PC:

1. Heard Mr.Manoj Patil, learned counsel for the petitioners and Mr.Vaibhav Gaikwad, learned counsel for respondents no.1(a) to 1(e) at length. Mr. Patil states that respondents no.1(a) to 1(e) are the only contesting respondents and, therefore ,seeks leave to delete respondents no. 2 to 5. Leave as prayed for is granted. Amendment shall be carried out forthwith.

2. Rule. Mr.Gaikwad waives service for respondents no.1(a) to 1(e). At the request and by consent of the parties, Rule is made returnable forthwith and petition is taken up for final hearing.

3. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 22.2.2016 passed by the learned trial Judge below Exhibit-186 in Regular Civil Suit No.89 of 2012. By that order, the learned trial Judge

directed that the question of exhibiting the documents produced by the petitioners along with list at Exhibit 68 will be considered at the time of delivering judgment.

4. Mr. Patil relied upon the Full Bench decision of this Court in the case of Hemendra Rasiklal Ghia Vs. Subodh Mody, 2008(6) ALL MR 352 and submitted that the learned trial Judge was not justified in observing that the question of exhibiting the documents produced by the plaintiffs along with the list at Exhibit 68 will be considered at the time of delivering judgment.

5. Mr. Gaikwad, though tried to support the impugned order, could not support the impugned order as, prima facie, the learned trial Judge did not consider the impact of the Full Bench decision of this Court. In view thereof, impugned order is set aside and Application Exhibit 186 is restored to the file of the learned trial Judge.

6. The learned trial Judge is requested to decide the application as expeditiously as possible and preferably within four weeks from the date of production of the authenticated copy of the order. All contentions of the parties on merits are expressly kept open. Rule is made absolute in the above terms.

Parties including the trial Court to act on the authenticated copy of this order.

(R.G.KETKAR, J.)