

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

WRIT PETITION NO.9267 OF 2016

Shri Tribhovandas Kalyanji Karelia ... Petitioner

Vs.

Shri Vinod Sondalal Waghela & Ors. ... Respondents

Mr.T.K. Karelia, Petitioner-in-person, present
Mr.Krunal Sampat for Respondent No.14

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: APRIL 10, 2017**

P.C. :

1. By this petition, the order dated 7.3.2016 is challenged thereby the Notice of Motion asking for production of the documents i.e., resolution of respondent No.14-Trust is rejected by the learned Judge of the City Civil Court, Dindoshi, Mumbai. The Trust has filed an additional affidavit, wherein it has mentioned that the minutes of the alleged meeting dated 8.11.2008, which had allegedly been recorded, are not in possession of the society as no such meeting were conducted on 8.11.2008. The fact of such alleged meeting of 8.11.2008 is denied by the respondent-Trust on affidavit dated 29.3.2017.

2. Per contra, the rejoinder and counter affidavit are filed by the petitioner in reply to the additional affidavit of Respondent No.14 – Trust. He has denied that the relevant minute book of the Trust is in his custody. He further submitted that there was a specific mention in the affidavit filed by the defendant in the Notice of Motion that the plaintiff cannot be asked to produce the aforesaid documents at this stage and the same can be asked for at the time of the trial of the suit and, therefore, it is submitted that it is logical that if the register was in the custody of the plaintiff, then, there was no question of asking the respondents to produce the minute book. It was specifically mentioned that the respondent did not give any response to his several applications and his personal visits in respect of obtaining the minutes and the defendants have nowhere mentioned earlier that the meeting of 8.11.2008 did not take place and no such minutes were recorded and for the first time, after three years, the respondents have made such statement that the minute book was taken away by the plaintiff and they are not in their custody.

3. Considering the statements made by both the parties on affidavit, as it is a word against word, in respect of existence of the

said minutes of meeting, the order of dismissal of the Notice of Motion dated 7.3.2016 cannot be faulted with.

4. Petition is dismissed.

(MRIDULA BHATKAR, J.)