

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition (ST) NO. 33209 OF 2017

Mithalal Pukhraj Jain

And Ors.

...Petitioners

Versus

M/s. Mahalaxmi Developers,

And Ors.

...Respondents

....

Mr.M. Vishwakarma, Advocate for the Petitioners.

....

**CORAM : SHANTANU KEMKAR &
R. G. KETKAR, JJ.**

DATE : DECEMBER 12, 2017

P.C.

The case of the Petitioners is that after the consent terms dated 11.5.2016 in Special Civil Suit No.113/2015 were submitted by the parties before the Civil Judge, Senior Division Court, Panvel, the record of Court proceedings is not traceable. In the circumstances, the parties are not able to act upon the consent terms dated 11.5.2016.

2. It is the case of the Petitioners that on 23.11.2017, they had filed an application before the trial Court seeking reconstruction of the Court brief for drawing decree as per the consent terms. On the said application, the matter was directed

to be placed on 28.11.2017 and thereafter now the matter is adjourned. The grievance of the Petitioners is that the Petitioners are suffering hardship because of non-availability of the record and because of which there is inability of the trial Court to draw a decree.

3. Having considered the submissions made by the learned Counsel for the petitioner, we dispose of this Petition by directing the trial Court to take appropriate decision in respect of said application dated 27.11.2017 and make endeavour to trace the record of the case.

4. Let necessary action/steps be taken by the trial Court within two weeks from the date of receipt of copy of this order. In case the record is not traceable, the trial Court is free to take decision in regard to reconstruction of the record by getting necessary papers from both sides within one month thereafter.

5. Petition is disposed of accordingly.

(R. G. KETKAR, J.)

(SHANTANU KEMKAR, J.)