

dik

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

WRIT PETITION NO. 3873 OF 2012

Sanjay Patil & Anr.

...Petitioner

vs

Tanaji Pandurang Patil & Ors.

...Respondents

.....
Mr Abhijeet Kandarkar for the Petitioners

.....

**CORAM : B.P.COLABAWALLA, J.
DECEMBER 12, 2018.**

P.C. :

This Writ Petition has been filed seeking to challenge the order dated 31st March, 2012 passed below Exh.14. By the impugned order the Trial Court exhibited the document filed with Exh.14 at Sr.No.1 and gave an opportunity to Defendant No.2 to adduce evidence to the extent of the contents of documents.

2 I find that the Writ Petition need not be entertained at this stage. Every interlocutory order cannot be challenged by filing a Writ Petition otherwise the trial itself would get affected. Section 105 of the Code of Civil Procedure, 1908 clearly provides that where a decree is appealed from, any error, defect or irregularity in any order affecting the decision of the case may be set forth as a ground of

objection in the Memorandum of Appeal. In other words, what Section 105 of the C.P.C. stipulates is that if Petitioners suffer a decree and which is adverse to them, then when they challenge said decree they can even challenge the order impugned in this Writ Petition.

3 This being the case, I do not find that it is necessary to interfere with the order impugned in this Petition under Article 227 of the Constitution of India. The Petition is accordingly dismissed. There shall be no order as to costs.

(B.P.COLABAWALLA, J.)