

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 7852 OF 2018

Hemlata wd/o Mewalal Surajbali Gupta & Ors.	]	Petitioners
Vs.		
Rajendra Surajbali Gupta and others.	]	Respondents
.....		
Mr. J.M. D'Silva, for Petitioners.		
Mr. Rajen D. Vora, for Respondents.		
.....		

CORAM : R.G. KETKAR, J.

DATE : 29TH OCTOBER, 2018.

P.C.

Heard Mr. D'Silva, learned Counsel for the petitioners and Mr. Vora, learned Counsel for the respondents at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 9th April, 2018 passed by the learned Judge, Court Room No.25 of the Court of Small Causes at Mumbai below Exhibit 164 in R.A.D Suit No.1717 of 2008. By that order, the learned trial Judge rejected the application made by the petitioner/defendant No.3(b) for exhibiting the document at Sr. No.18, Page No.74 of list of original document i.e extract of School Register and Transfer Certificate dated 25th July, 2004 of the plaintiff (respondent No.1 herein) which was exhibited and proved in the earlier litigation between the same parties in the Small Causes Court.

3. After perusing the material on record, it is abundantly clear that in the earlier suit namely L.E. Suit No.7/8 of 1999, respondent No.1 herein who

was the plaintiff in that suit had examined Sitaram Videshi Officiating Principal (Pradhancharya) of the Yadunath Inter College situate at Bahadurpur, Asamgarh. He was shown certificate dated **25th September, 2004** at Article-Y to the list of documents. He deposed that he had issued that certificate and it bears his signature at the column 'true copy'. He had signed the said certificate at Article-Y and contents thereof are true.

4. Defendant No.3(b) filed application at Exhibit 164 seeking production document at Sr. No.18 page 74 of the list of original documents viz; extract of School Register and Transfer Certificate dated **25th July, 2004**. By the impugned order, the learned trial Judge after perusing the documents rejected the application. Mr. D'Silva seeks permission to withdraw this Petition with liberty to file a fresh application for production of certificate dated **25th September, 2004**.

5. In view thereof, on the motion made by Mr. D'Silva, Petition is allowed to be withdrawn with liberty as prayed for and as such is disposed of. Grant of liberty shall not be construed as expression of merits either way. All contentions of the parties on merits are expressly kept open. Order accordingly.

[R.G. KETKAR, J.]