

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST.) NO.21196 OF 2018

Abdul Kader Ali Mohammed and Company ... Petitioners
Vs.
Khudadad Irani and others ... Respondents

Mr. Rajendra K. Yadav for Petitioners.

CORAM : R. G. KETKAR, J.
DATE : JULY 27, 2018

P.C. :

Heard Mr. Yadav, learned Counsel for petitioners and Ms Gover Khodadad Irani - respondent No.2 appearing in person at length.

2. This Petition takes exception to the order dated 20.06.2018 passed by the learned Judge, Court Room No.15 of the Small Causes Court at Mumbai below exhibit-4 in Marji Application No.149 of 2018. By that order, the learned trial Judge granted permission to the defendants to file photocopies of the electricity bills on record.

3. I have already dealt with this aspect in Writ Petition (St.) No.20675 of 2018 decided on 24.07.2018. That Petition was filed challenging the order dated 20.06.2018 passed by the learned trial Judge below exhibit-95 in Marji Application No.274 of 2016. Marji Application No.274 of 2016 was filed by the defendants under Order IX, Rule 13 of the C.P.C. for setting aside ex-parte decree dated 08.07.2013 passed in R.A.E.& R.Suit No.686/1039 of 2009. The present Marji Application is taken out by the defendants inter alia praying for charging the plaintiffs and committing the matter to the concerned Metropolitan Magistrate for taking cognizance and prosecuting the defendants for the act of perjury committed in R.A.E. & R. Suit

No.6687/1039 of 2009 as per Section 340(2) of the Code of Criminal Procedure, 1973. For the reasons recorded in the order dated 24.07.2018 passed in Writ Petition (St.) No.20675 of 2018, I do not find any case is made out for interfering with the impugned order. Hence, Petition fails and the same is dismissed. It is, however, expressly made clear that where a decree is appealed from by the petitioners, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.

4. At this stage, Mr. Yadav orally applies for stay of this order for a period of 4 weeks from today. As by orders dated 24.07.2018 passed in Writ Petition (St.) No.20675 of 2018, I have already permitted production of these documents and when no stay was prayed for, I do not find that any case is made out for stay. Oral application is rejected.

(R. G. KETKAR, J.)

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