

## WRIT PETITION NO. 2274 OF 2017

|                                       |     |             |
|---------------------------------------|-----|-------------|
| Shripatrao Ganpatrao Sapte            |     |             |
| Through POA Ms.Anita Shripatrao Sapte | ... | Petitioner  |
| V/s.                                  |     |             |
| Suresh Ramchandra Mane & Ors.         | ... | Respondents |

- Mr.Prathamesh B. Bhargude for the Petitioner.

**CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.**

**DATE : 27<sup>th</sup> MARCH, 2018.**

**P.C. :**

11 Heard learned counsel for the Petitioner.

2] By this Writ Petition, filed under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 30<sup>th</sup> August 2016 passed by the 10<sup>th</sup> Joint Civil Judge, Senior Division, Pune, below the application at Exhibit-83 in Regular Civil Suit No.164 of 2014.

3] The application at Exhibit-83 was filed by the present  
Petitioner requesting the trial Court that Defendant No.30(c) be  
shown as Power of Attorney Holder of all Defendants except Defendant  
No.29 and to issue summons on behalf of all the other Defendants to

Defendant No.30(c). The said application was, however, rejected by the trial Court. Hence, the instant Writ Petition.

4] The ground on which the Petitioner is seeking that the Defendant No.30(c) be shown as Power of Attorney Holder of all the Defendants except Defendant No.29 is that, the Defendant No.30(c) has appeared as Power of Attorney Holder of these Defendants in following proceedings.

- i) R.T.S. Enquiry No. 36 of 2009
- ii) R.T.S. Appeal No. 102 of 2009
- iii) R.T.S. Appeal No. 328 of 2010
- iv) R.T.S. Revision No. 230 of 2010
- v) R.T.S. Revision No. 200 of 2014

5] In view thereof, it was requested that, apparently as the other Defendants have given Power of Attorney to Defendant No.30(c), in other proceedings, in this case also, it would be sufficient to serve Defendant No.30(c) alone, as Power of Attorney Holder on behalf of the other Defendants except Defendant No.29.

6] However, as rightly observed by the trial Court, unless the Defendants have given such Power of Attorney to Defendant No.30(c) to appear in the present proceeding also, merely because the Defendant No.30(c) has appeared in other proceedings on their behalf,

he cannot be treated as their Power of Attorney in this proceeding also. It will be for those Defendants to decide whether to ask Defendant No.30(c) to represent them in this proceeding also as their Power of Attorney. Unless and until they do so, the Petitioner cannot, on his own sweet will, contend that, Defendant No.30(c) should be treated as Power of Attorney of other Defendants.

7] Moreover, the Petitioner has already filed an application at Exhibit-78, requesting the trial Court to issue witness summons to Defendant Nos.1 to 4, 6, 7, 9 to 11 and 13 to 28; that application is also allowed. In view thereof, the trial Court has rightly rejected the Petitioner's present application.

8] In view of the above, in writ jurisdiction, no interference is warranted in the impugned order.

9] Writ Petition therefore being without merit, stands dismissed.

**[DR.SHALINI PHANSALKAR-JOSHI, J.]**