

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

10. WRIT PETITION No. 241 of 2019

1. Chandrashekhar Irappa Hurdale
age 88 years occupation agriculture and business
2. Shivraj S/o Irappa Hurdale,
age 77 years occupation agriculture and business
Through power of attorney holder
Shivsamb S/o Chandrashekhar Hurdale,
R/o Almala Taluka AUSA District Latur.

...Petitioner

VERSUS

1. Dwarkabai Wd/o Manikrao Kankal (died)
through legal representatives:
- 1/1. Jyoti @ Shama Prakash Sulakhe,
age 56 years occupation household
R/o Gandhi Nagar, near Rajasab Hotel,
Osmanabad Taluka and District Osmanabad.
- 1/2. Manorama Ramesh Sulakhe,
age 52 years occupation household
R/o Kurudwadi road, near Mamasahab Jagdale Hospital,
Barshi Taluka Barshi District Solapur.
2. Pradip S/o Manikrao Kankal,
age 52 years occupation business
3. Deelip S/o Manikrao Kankal,
age 50 years occupation nil
4. Sanjay S/o Manikrao Kankal,
age 44 years occupation business

All R/o Cloth Lane, Latur Taluka and District Latur.

...Respondents

Mr. H.V. Patil, Advocate for Petitioner

Mr. S.S. Rath, Advocate for respondents No.3 & 4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 21st January, 2019

ORDER:

1. Heard learned counsel for petitioners and respondents.

2. Present writ petition has been moved against rejection of application Exhibit – 104 in Rent Appeal No. 3 of 2014 after this court had observed in paragraph no. 6 of order in writ petition no. 11599 of 2018, thus,

“ In view of the above, this petition is disposed of. These litigating sides would advance their final submissions in the Appellate Court on the ensuing date without seeking any adjournment. Needless to state, the petitioners would canvass Exh.73 alongwith their contentions in the said appeal. ”;

3. Exhibit 104 has been moved praying for exhibition of several documents. Petitioners had filed various applications in appeal producing documents, a few of which are decided on merits and a few are directed to be decided alongwith the appeal.

4. After having heard and on going through observations of learned District Judge-1, Latur, as are appearing in paragraphs No. 7 and 8 while deciding application Exhibit- 104 on 18th December, 2018 in Rent Appeal No. 3 of 2014, which read, thus,

“ 7. Had the appellants bonafided intention that they wanted to rely on the documents produced on record alongwith above said applications, then they must have

filed necessary application complying provisions of Order XLI Rule 27 of the Civil Procedure Code, 1908. They must have mentioned why those documents could not be filed before learned trial court. But, in all above said applications, the appellants have mostly prayed to allow production of documents, which is already allowed and in two application Exh.45 and Exh. 102 appellants prayed to exhibit the documents but, again without giving any grounds or reasons as to why and how those documents could be exhibited in appeal, without complying provisions of Order XLI Rule 27 of the Civil Procedure Code, 1908. The appellant did not make any attempt to seek that documents filed alongwith Exh. 45 & 102 should be exhibited after passing order on 01.10.2015 or after filing application Exh. 102, till filing of present application.

8) *It is necessary to note here that the appellants sought several adjournments on the ground that Writ Petition No. 11599 of 2018 is pending before the Hon'ble High Court. Prior to that also, appellants have filed several adjournment applications. If appellants bonafidely desire that the documents produced by them alongwith above said applications should have been exhibited, then they could have made such attempt earlier also without seeking adjournment on the ground of pendency of Writ Petition No. 11599 of 2018 before the Hon'ble High Court. The appellants had also sought some adjournment by stating that appellants are challenging the above said order of the Hon'ble High Court before the Hon'ble Supreme Court. But, it appears that, they have not challenged said order before the Hon'ble Supreme Court. ;*

it does not appear that the order can be faulted with and it is difficult to accede to the request made in the writ petition. The writ petition is, therefore, not entertained and is rejected.

**(SUNIL P. DESHMUKH)
JUDGE.**