

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10723 OF 2018

Shivdas Ganpati Kadam and others	... Petitioners
Versus	
Santram Khandu More	... Respondent

....

Mr. S. S. Manale, Advocate for petitioners.
Mr. Avinash A. Khande, Advocate h/f Mr. G. V. Sukale, Advocate for respondent.

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CORAM : M. S. KARNIK, J.

DATED : 19th AUGUST, 2019

PER COURT :-

1. Heard learned counsel for the petitioners.
2. The petitioners are challenging the order dated 07.02.2018 passed below Exhibit-139 in Regular Civil Suit No.468 of 2010 passed by the Joint Civil Judge, Senior Division, Latur, rejecting the application made by the defendants to exhibit the photographs which are already placed on record.
3. My attention is invited to the impugned order passed by the trial Court rejecting the said application.

4. After going through the cross examination of the plaintiff, it reveals that the trial Court has specifically rejected the request made by the defendants to exhibit the photographs as the negatives are not available. The cross examination of the plaintiff was over as far back as on 19.11.2012.

5. It is submitted by learned counsel for the petitioners that due to wrong legal advise, the said order of refusal to exhibit the photographs could not be challenged. He would submit that an application was made for appointment of Court Commissioner, which came to be rejected as the suit was only for injunction. Learned counsel for the petitioners would further submit that even the evidence of the defendants was closed. Thereafter, the petitioners had approached this Court. This Court permitted the defendants to lead evidence and presently the defendants are in the witness box for leading their evidence.

6. The trial Court has rejected the application Exhibit-139 on the ground that on the earlier occasion the request made by the defendants to exhibit those photographs was turned down.

7. Learned counsel for the respondent would state that as the defendants are leading their evidence, they can always prove the photographs during the course of their evidence.

8. Considering that the order passed by the trial Court is an interlocutory order, the same can always be challenged in appeal after the suit is decided.

9. In view of above, I am not inclined to interfere with the order passed by the trial Court at this stage. The writ petition is therefore rejected.

10. Needless to mention that the petitioners will cooperate with the trial Court in expeditious disposal of the suit. The hearing of the suit is expedited.

[M. S. KARNIK, J.]

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