

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

WRIT PETITION NO.12958 OF 2019

ANGAD NAGNATH KATALE AND ANOTHER
VERSUS
GUNDU KASHINATH GHADSE THROUGH LRS SURESH GUNDU
GHADASE AND OTHERS

...

Advocate for the Petitioners : Shri Shinde Shrikishan S.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 17th October, 2019

Per Court:

1 The petitioners, who are the original defendant nos.3 and 4 in RCS No.48/2017, are aggrieved by the order dated 16.08.2019 passed by the Trial Court by which, the application exhibit 118 filed by these petitioners praying for discarding the affidavit in lieu of the examination-in-chief filed by the power of attorney holder for the plaintiffs, has been rejected.

2 I have considered the strenuous submissions of the learned advocate for the petitioners and have gone through the petition paper book.

3 The law on the power of attorney holder leading evidence only to the extent of his personal knowledge, is well settled and does not

call for a debate. So also, the opponents can bring to the notice of the Trial Court through the cross examination that some portion of the affidavit will have to be discarded as it would not constitute personal knowledge of the power of attorney holder. These aspects can be considered by the Trial Court finally while appreciating the evidence.

4 In view of the above, this Writ Petition is disposed off with liberty to the petitioners to cross examine the power of attorney holder as they may deem fit and proper for exposing those portions of his testimony, which may not fall within his personal knowledge and the Trial Court would consider the same while deciding the suit.

kps

(RAVINDRA V. GHUGE, J.)