

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3373 OF 2019

Mahendra M. Aurangabadkar
(Deceased through LR/HR and ors) .. Petitioners

vs.

Pranesh N. Aurangabadkar .. Respondent

Mr. A.M. Kulkarni a/w. Ms Akanksha Heluskar for the
Petitioners.

CORAM : M. S. SONAK, J.

DATE : 18 MARCH 2019.

P.C. :-

1] At the request of Mr. Kulkarni, learned counsel, this matter, which was posted at 3.00 p.m., is called out at the commencement of the Board as Mr. Kulkarni has stated that he is in some difficulty at 3.00 p.m..

2] Heard Mr. Kulkarni, learned counsel for the petitioners.

3] The challenge in this petition is to the order dated 17 January 2019 by which the learned Trial Judge has overruled the objections raised by the petitioners to the original documents being shown to the expert witness and requiring the expert witness to state his opinion on the same.

4] Mr. Kulkarni submits that such a course of action is impermissible in law. He submits that such a course of action never had been adopted even by the Court exercising powers under section 73 of the Indian Evidence Act. Therefore, such a course of action is not open to the expert witness. He submits that the opinion of the expert witness

was earlier tendered on the basis of certified photocopy. Therefore, at the highest the certified photocopy could have been shown to the witness.

5] Having considered the contentions raised by Mr.Kulkarni, I am unable to agree with the same. The expert witness, is being cross-examined and if the original documents are available, then there can be no bar as such showing such documents to the expert and seeking his opinion. Ultimately, this is a matter of opinion of the expert. The petitioners are always at liberty to cross-examine the expert or to raise any other objections as may be admissible in law. However, it cannot be said that the learned Trial Judge has exceeded jurisdiction in overruling the objections raised by the petitioners.

6] Accordingly, this petition is liable to be dismissed and is hereby dismissed.

(M. S. SONAK, J.)