

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.2714 OF 2019

Shrenik Pravin Khona and others.	]	Petitioners
Vs.		
Hiranyakant Govind Samant	]	Respondent

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Mr. Ish Jain a/w Rajan Yadav and Kiran Jain i/b Kiran Jain & Co., learned Counsel for the Petitioners.

Mr. Kalpesh Joshi a/w Arvind Shrivastava i/b Kalpesh Joshi Associates, learned Counsel for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 7th MARCH, 2019.

P.C.

Not on board. At the request of Mr. Jain, taken up in the production board.

2. Heard Mr. Jain, learned Counsel for the petitioners and Mr. Joshi, learned Counsel for the respondent.

3. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 27th November, 2018 below Exhibit 68 as also the order dated 7th January, 2019 below Exhibit 72 passed by the learned trial Judge in R.A.E. Suit No.391/733 of 2009. By order dated 27th November, 2018 below Exhibit 68, the learned trial Judge rejected the application made by defendant No.1(b) for direction to the plaintiff to produce original notice issued by Municipal Corporation of Greater Mumbai (for short 'Corporation') dated 1st June, 2016 or in the alternative, the defendants be

permitted to lead secondary evidence in respect of the said notice which is marked as 'Article-Y-3". Defendant No.1(b) further prayed for recalling P.W.1 for further cross-examination on the said notice.

4. By order dated 7th January, 2019 below Exhibit 72, the learned trial Judge rejected the application made by defendant No.1(b) for issuing witness summons to the designated officer or any authorized officer or authorized employee of the Corporation to prove the notice dated 1st June, 2016.

5. Mr. Joshi submits that the respondent is present in the Court. He has tendered photo copy of his 'PAN Card' which is taken on record and marked 'X' for identification. Upon taking instructions from him, he states that the notice dated 1st June, 2016 may be admitted in evidence and accordingly be marked as exhibit, keeping the contention about relevancy of that notice open.

6. In view thereof, notice dated 1st June, 2016 shall be admitted in evidence and shall be marked as exhibit. Contents of the notice shall be taken to have been proved. Contention of the respondent about relevancy of this notice is expressly kept open. Applications Exhibit 68 and Exhibit 72 stand disposed of in the above terms.

7. In view thereof, it is not now necessary to examine correctness of the impugned orders. The Petition is accordingly disposed of.

[R.G. KETKAR, J.]