

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8380 OF 2017

Gopal Purushottam Shirole and others ... Petitioners
Vs.
Lady Tarabai Chunilal Mehta since deceased
through heirs and others ... Respondents

Mr. Vishal Kanade i/b. Mr. Satish S. Raut for Petitioners.
Ms Bhoomika Lodha i/b. Ashwin Ankhad & Associates for Respondents
No.1(e) and 1(f).
Mr. Prasad Dhakephalkar, Senior Advocate a/w. Mr. Akshay Kolse Patil,
Ms Henna Aulat and Ms Anaisha Zachariah i/b. Crawford Bayley & Co. for
Respondents No.3 and 4.

CORAM : R. G. KETKAR, J.
DATE : JULY 25, 2019

P.C. :

Heard Mr. Kanade, learned Counsel for petitioners, Ms Lodha, learned Counsel for respondents No.1(e) and 1(f) and Mr. Dhakephalkar, learned Senior Counsel for respondents No.3 and 4.

2. By this Petition under Article 227 of the Constitution of India, petitioners, hereinafter referred to as 'plaintiffs', have challenged the order dated 03.12.2016 passed by the learned trial Judge below exhibit-173 in Special Civil Suit No.233 of 2006. By that order, the learned trial Judge partly allowed the application made by the plaintiffs for leading secondary evidence with respect to the documents enumerated in the application at exhibit-156. The learned trial Judge disallowed leading secondary evidence with respect to documents at Sr.Nos.1 to 4 and permitted leading secondary evidence with respect to documents at Sr.Nos.5 to 9.

3. The Petition was heard at length on 16.07.2019 and was kept

today for passing order.

4. Mr. Kanade, upon taking instructions, states that plaintiffs will take out fresh application along with supporting documents and affidavit for leading secondary evidence with respect to documents at Sr.No.1 to 4 at exhibit 156 by making out a case as contemplated under Sections 63 and 65 of the Indian Evidence Act, 1872 within four weeks from today and will serve copy on the other side during this period.

5. In view thereof, on the motion made by Mr. Kanade, Petition is allowed to be withdrawn with liberty to file fresh application along with supporting documents and affidavit for leading secondary evidence with respect to documents at Sr.No.1 to 4 enumerated in application exhibit-156. Plaintiffs shall file application within four weeks from today and serve copy on the other side during this period. The respondents will file their reply within four weeks from receipt of the application. The learned trial Judge will decide the application, uninfluenced by the observations made in the impugned order. All contentions of the parties are expressly kept open. The Petition is disposed of accordingly.

(R. G. KETKAR, J.)

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