

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.422 OF 2016

Pandurang Ganpati Bansode & Anr.

...Petitioners

Vs.

Kasam Chand Mulani-Pathan

...Respondent

Mr. Vijay Patil a/w. Mr. Dilip Bodake, for the Petitioners

Mr. Vaibhav Gaikwad, for the respondent No.1

CORAM : M. S. SONAK, J.

DATE : APRIL 18, 2019

P.C.:

1. Heard Mr. Patil for the petitioners.
2. Ld. Counsel for the petitioners submit that if the leave is granted to the petitioners to file additional affidavit and place on record the copies of certain orders made by the authorities under Tenancy Act subsequently, then the petitioners will not press for the reliefs in this petition. Mr. Patil submits that in addition to this petitioners urge before the Appeal Court that the findings recorded by the Trial Court in connection with the Sale Deed dated 14/6/2006 are without jurisdiction and in any case improper.
3. According to me, there can be no difficulty in granting leave to the petitioners to file additional affidavit and place on record the

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copies of certain orders made by the authorities under the Tenancy Act. The petitioners can also be granted liberty to raise aforesaid contention.

4. However, it is made clear that merely because leave is granted, that does not mean this Court has accepted that the orders made by the Tenancy Authority are relevant or that they have some nexus with the issue which arises in the appeal. Similarly, merely because leave is granted to urge the additional contention, that also does not mean that this Court has accepted the validity of the said contention. Leave is granted only to place on record the orders and to raise additional contention. However, all objections of the respondents are expressly kept open and the Appeal Court will therefore have to decide the appeal, on its own merits and in accordance with law.

5. In view of leave being granted in aforesaid terms and by keeping open all the contentions of the parties, this petition is disposed of as not pressed.

6. Mr. Patil states that additional affidavit alongwith copies of the order will be positively filed on or before 26/4/2019 and the arguments in the context of such additional affidavit will also be made on 26/4/2019 itself, which is otherwise the date fixed by the Ld. Trial Court in the appeal. Ld. Counsel for the respondents states that the

respondent will also argue the appeal on 26/4/2019 or on such other date to which the appeal may be adjourned.

7. All concerned to act on the basis of an authenticated copy of this order.

(M. S. SONAK, J.)