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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14283 OF 2018**

Smt. Priti Upendra Parekh Petitioner.
V/s
Mr. Mahendra Chimanlal Parekh and Ors. Respondents.

Mr. Yogesh Katira for the Petitioner.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 14, 2021

P.C.:-

1] This Petition is by the original Plaintiff questioning the order passed below Application-Exhibit-212 moved in Special Civil Suit No.173 of 2012 under the provisions of Order XI Rule 12 read with Section 151 of the Civil Procedure Code seeking discovery.

2] By the order impugned, Trial Court rejected the prayer with a reason that the Petitioner/Plaintiff is presupposing/presuming that there was mismanagement of funds and properties of her deceased husband and the said funds are invested by the Respondents/Defendants.

3] Trial Court noticed that such a presumption of the Petitioner/Plaintiff is unfounded and it is for the Plaintiff to initially establish that there was mismanagement of funds and properties of the deceased husband of the Plaintiff by the Respondents/Defendants and Respondents in turn have invested the money in securities, shares property etc.

4] The learned Counsel for the Petitioner submits that in view of mismanagement of funds and properties and diversion of funds sourced out of the aforesaid mismanagement by making illegal investments by Respondents/Defendants in their own name, the discovery as is sought is verymuch necessary. The learned Counsel also invited my attention to the case laws as were relied upon before the court below.

5] I have appreciated the contentions as are raised by the learned Counsel for the Petitioner. Primarily, once the Petitioner comes out with the case about mismanagement of funds and properties, burden is on the Petitioner to prove and establish the same. The documents which are sought to be used through Application-Exhibit-212 seeking

discovery will be hardly of any consequence unless the Petitioner discharges her burden as has been rightly observed by the Trial Court.

6] In that view of the matter, no case for interference under extraordinary jurisdiction is made out. Petition fails and same stands dismissed.

(NITIN W. SAMBRE, J.)