

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14013 OF 2018

Gurdipsingh Sadhusingh Gabadia
& Ors. .. Petitioners

Vs.

Vaita Yogesh Acharya (Deceased)
Through LR. .. Respondent

ALONG WITH
WRIT PETITION NO.14014 OF 2018

Gurdipsingh Sadhusingh Gabadia
& Ors. .. Petitioners

Vs.

Dr. Yogesh Srinivas Acharya .. Respondent

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Mr. G.S. Godbole with Mr. Kaustubh Thipsay for the
petitioners.

Mr. Nikhil Sakhardande with Mr. Ibrahim Merchant for
respondent.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 14TH OCTOBER, 2021.

P.C:-

1. By the present petitions, a challenge is raised to an order passed by the Joint Civil Judge, Senior Division, Kalyan on 02/11/2018 by which the application filed by the plaintiff for impleading the proposed defendant being “Radha Soami Satsang Beas’ registered under the Societies Registration Act, bearing Registration No.92, 1957-58, Punjab & Himachal Pradesh” as a necessary party to the suit is allowed.

2. The Special Civil Suit No.136 of 2013 is filed by the plaintiff seeking a declaration and injunction. When the pleadings are carefully read, it allege that on or about 29/10/2003, the original plaintiff entered into a transaction of sale in respect of her immoveable property, with defendant No.1. The description of the suit property is set out in paragraph No.2 of the plaint. It is further pleaded that the original plaintiff appointed defendant No.1 as constituted attorney in respect of the suit property vide an undated General Power of Attorney and the said Power of Attorney was attested by defendant No.1 in the Sub-Registrar’s Office at Kalyan. A reference is made to the suit agreement in the form of purported Agreement for Sale dated 15/05/2009 and the pleadings are to the effect that the cause of

action to file the suit has arisen when the original plaintiff received the search report of Index-II Register maintained by Office of the Sub-Registrar, Kalyan and, thereafter, the suit is filed by the plaintiff for cancellation and setting aside of the said documents. A relief is prayed that the said documents being the Power of Attorney and the Agreement for Sale shall be declared as illegal, void and liable to be set aside.

3. Pertinent to note that defendant No.1 acted in the capacity as Zonal Secretary of Radha Soami Satsang and the documents were executed by him for and on behalf of Radha Soami Satsang Beas. Necessarily, the aforesaid facts prompted the plaintiff to move an application for amendment, which was contested by the defendants. However, recording that the proposed amendment does not change the nature of the suit nor it is moved at a belated stage, the application came to be allowed.

4. I do not see any legal impropriety in the impugned order as the learned Judge was prompt in stating that the main object of Order 6 Rule 17 of the CPC is that the court should get all the material and try the merits of the case and, for that, allow all amendments unless and until the amendments are moved at a belated stage. Since the amendment was only to implead “Radha Soami Satsang Beas” as a party to the suit, it has been rightly granted.

5. The impugned order, therefore, deserves to be confirmed by dismissing the present writ petitions. The writ petitions are, accordingly, dismissed.

[SMT. BHARATI DANGRE, J.]