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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1700 OF 2022**

Balaso Pandharinath Ingawale and Anr. Petitioners.

V/s

Ananda Bajrang Gurav Respondent.

Mr. Mahindra B. Deshmukh for the Petitioners.

Mr. Kalpesh U. Patil for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: APRIL 13, 2022

P.C.:-

1] Heard.

2] Prayer of the Respondent/Plaintiff in RCS No.328 of 2011 for amendment of the Plaint is allowed vide impugned order dated 29th November, 2021. As such this, Petition.

3] Contentions are, the Court below is in error in not considering principle of due diligence. Mr. Deshmukh, Counsel for the Petitioners would urge that even if Petitioners have failed to produce the document in spite of order to that effect by the Trial Court, Respondent/Plaintiff was in possession of the document and as such delay caused results in failure of the Respondent to follow principle of due diligence.

4] Counsel for the Respondent would support the order impugned.

5] Fact remains that the document as regards Agreement dated 20th March, 1992 was directed to be produced by the Petitioners/Defendants vide order passed below Exhibit-60 which has attained finality as the same was neither challenged nor complied with by the Petitioners. As a sequel, Respondent/Plaintiff got hold of certified copy of the said document, production and pleadings in support thereof was permitted by the impugned order. If we appreciate the submissions of Mr. Deshmukh, what can be noticed is, Petitioners are trying to take advantage of their own failure of non-compliance of the order passed below Exhibit-60. In any case, it cannot be inferred that Petitioners are taken by surprise because of amendment and production of document.

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

(NITIN W. SAMBRE, J.)