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

WRIT PETITION 6715 OF 2019

Mushtaq Ali Kotawadekar and Anr.

... Petitioners

Versus

Shri Abdul Karim Amir Mukadam

... Respondent

Mr. Sanjiv Sawant a/w Mr. Abhishek Matkar & Mr. Malhar Bageshwar
i/by Mr. Abhishek Deshmukh for the Petitioners.

Mr. Harihar Bhavé a/w Rupa Bhavé and Divya Menon i/by Bhavé and
Company for the Respondent.

**CORAM: ROHIT B. DEO, J.
DATE : 13th JUNE, 2022**

P.C. :-

. The grievance of the petitioner, who is the plaintiff in Regular Civil Suit 278 of 2012 which is brought for declaration and injunction is that while the learned Trial Judge allowed the production of a photograph on record, the learned counsel for the plaintiff was not permitted to cross-examine the defendant on the basis of the said photograph.

2. It is discernible from record that while allowing the production of the photograph, the learned Trial Court has rightly observed that all that is permitted is production and the question of admissibility is not decided. In this view of the matter, without proving the photograph, the plaintiff could not have asked the defendant in the cross-examination as to whether photograph is in respect of the suit property

and the neighbouring properties. Indeed, no question pertaining to the photograph could have been asked, unless, the defendant admits the photograph which would then render formal proof unnecessary.

3. In this view of the matter, I see no error in the order impugned whereby the learned counsel for the plaintiff was not permitted to put questions to the defendant on the basis of the photograph.

4. Needless to record that nothing is observed herein touching the admissibility of the photograph, which issue is kept open for the learned Trial Judge to decide at an appropriate stage.

5. Subject to the observations supra, petition is disposed of.

[ROHIT B. DEO, J.]