

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3445 OF 2018

Shri. Amar Naresh Panjawani
and anr.

.. Petitioners

v/s.

Shyamlal Aaratmal Bacharani
and Ors.

.. Respondents

...

Ms. Minal Chandani, Advocate for the Petitioners.

Mr. Sandeep Koregave, Advocate for the Respondents.

...

CORAM : SANDEEP V. MARNE, J.

DATED : JULY 28, 2023.

P.C. :

1. By this petition, Petitioners challenge the order dated January 30, 2017 passed by the 4th Joint Civil Judge Senior Division, Kolhapur allowing application filed by plaintiff-Shyamlal Aaratmal Bacharani for restraining the Petitioners from moving an application in their capacity as Plaintiffs in Special Civil Suit No.433/2010.

2. It appears that the Plaintiff-Shyamlal Bacharani had executed Power of Attorney in favour of the Petitioners to prosecute, *inter-alia*, Special Civil Suit No.433/2010. Later, the plaintiff-Shyamlal Bacharani apparently revoked the Power of

Attorney and now wants to prosecute the suit himself. In that view of the matter, the Trial Court has restrained the Petitioners from acting in capacity as Plaintiffs in Special Civil Suit No.433/2010.

3. It appears that Petitioners have independently filed application at Exhibit-48 for their impleadment as Plaintiffs no.2 and 3 in Special Civil Suit No. 433/2010 and the said application is still pending. Since Petitioners' application at Exhibit-48 is not yet decided, they cannot act in capacity as Plaintiffs as of now. Therefore, I do not see any error in the order passed by the Trial Court in allowing Plaintiffs' Application at Exhibit-96.

4. However, it is clarified that the application at Exhibit-48 filed by the Petitioners shall be independently decided by the Trial Court without being influenced by any of the observations made in the impugned order dated January 30, 2017, as well as in the present order. It also appears that the Petitioners' application at Exhibit-48 is pending since April 18, 2009. It would be therefore appropriate if the Trial Court decides the same in an expeditious manner, if not already decided.

5. With the above observations, the Writ Petition is **disposed of** with no orders as to costs.

(SANDEEP V. MARNE, J.)