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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13628 OF 2022

Chandrakant Dharshi Vora and Ors.

.. Petitioners

Versus

Hiren Praful Vora and Ors.

.. Respondents

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- Mr. Piyush Raheja a/w. Stenna Fernandes i/by Mr. Ashish T. Suryavanshi, Advocate for Petitioners.
 - Mr. Mayur Parwani h/f. Mr. Ashok M. Saraogi, Advocate for Respondent Nos.1 and 2.
 - Mr. Mutahhar Khan a/w. Mr. Medhavin Bhatt, Christopher D'Souza i/by MV Law Partners for Respondent No.6.
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 07, 2023.

P.C.:

1. Heard Mr. Raheja, learned Advocate for Petitioners; Mr. Parwani, learned Advocate for Respondent Nos.1 and 2 and Mr. Khan, learned Advocate for Respondent No.6 for some time.

2. The present Writ Petition takes exception to the order dated 30.07.2022 passed in Notice of Motion No.2322 of 2014 in S.C. Suit No.6714 of 2006 filed by the Petitioners (Plaintiffs therein) under Section 151 of the Civil Procedure Code, 1908. The suit was filed in the year 2006. The parties have completed the evidence on 30.09.2019 and after a period of three years thereafter when the suit was slated for final arguments, Notice of Motion was filed on 12.02.2020.

3. Mr. Raheja, learned Advocate for Petitioners would contend that the documents sought to be relied upon by the Plaintiffs are referred to by the Plaintiffs in the plaint as also in the affidavit of evidence. However, during the course of trial, no steps were taken by the Plaintiffs in order to bring them on record and/or even confront the witnesses with the same. He would however contend that not allowing the Plaintiffs to rely on the said documents would be the prejudicial to the claim of the Petitioners.

4. Mr. Parwani and Mr. Khan, learned Advocates appearing for the Respondents strongly refute and oppose the Application of the Petitioners at this stage of the suit.

5. Considering the aforementioned timeline, it cannot be stated by the Petitioners that a substantive right still remains to be allowed to the Petitioners to refer to and rely upon the said documents which are at Exhibit-B of the Writ Petition at this stage of the suit after completion of evidence.

6. Undoubtedly after completion of the evidence, the parties would have knowledge of the strength of their respective evidence and case and in that view of the matter, the Notice of Motion filed subsequent thereto would be a complete after thought to not only improve upon the evidence that has been led but also to fill in the lacunae and loopholes.

7. In that view of the matter, the Writ Petition lacks substance. The impugned order dated 30.07.2022 is a reasoned order and is sustained.

8. Today, Mr. Raheja fairly submits that the final arguments of the Petitioners i.e. Plaintiffs are already over whereas the Defendants' final argument is going on before the learned Trial Court. Needless to state that the Petitioners will be at liberty to refer to and rely upon the said documents at the time of Appeal, if so required, strictly in accordance with law.

9. With the above observations and findings, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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