

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16030 OF 2022

Haribhai Nanubhai Bharwar & Ors.

.. Petitioners

Versus

Urmila Prakash Thakur

.. Respondent

-
- Mr. Rupesh R. Lanjekar for Petitioners
 - Ms. Ridhima Mangaonkar for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 06, 2023

P.C.:

1. Heard Mr. Lanjekar, learned Advocate for Petitioners and Ms. Mangaonkar, learned Advocate for Respondent.

2. Perused the impugned order dated 14.11.2022 passed below Exh. 31 and order dated 05.12.2022 passed below Exh. 25.

3. Mr. Lanjekar, learned Advocate for Petitioners seeks to challenge the order dated 05.12.2022 only, hence I am restricting this Petition only to the challenge against the said order. He has drawn my attention to the order dated 28.12.2022 passed by the Vacation Bench of this Court, *inter alia*, granting ad-interim relief. Perusal of the order dated 05.12.2022 would show that the learned Civil Judge Senior Division, Thane has recorded that the Petitioners (original Defendants) had not filed their say to the Application below Exh. 25 until 05.12.2022. Mr. Lanjekar would submit that the said recording /

finding is incorrect as the Petitioners had already filed their say / affidavit-in-reply on 07.09.2022 which was already on the record and file of the said Court and was also marked as Exh. 29.

4. Ms. Mangaonkar, learned Advocate for Respondent would concur with the submissions made by Mr. Lanjekar.

5. In view of the above, the order dated 05.12.2022 is not sustainable and deserves to be set aside. The learned Civil Judge Junior Division, Thane is directed to consider the Application below Exh. 25 filed on 16.08.2022 and the affidavit-in-reply dated 07.09.2022 and pass appropriate reasoned order within a period of four weeks from today after hearing both parties.

6. With the above direction, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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AMBERKAR
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