

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1890 OF 2023

Sherona John Rodrigues

.. Petitioner

Versus

Khozema Firoz Sager & Ors.

.. Respondents

- Ms. Neeta P. Karnik for Petitioner

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 20, 2023

P.C.:

1. Heard Ms. Karnik, learned Advocate for Petitioner. Perused the impugned order dated 06.01.2023 passed below Exh. 38 in Special Civil Suit No. 44 of 2020.

2. Ms. Karnik would submit that the principal grievance of the Petitioner (original Defendant No. 3) is that the original suit is filed by the constituted power of attorney of the Plaintiffs, who reside in California. She would submit that power of attorney has been executed at Vasai and subsequent thereto, the constituted power of attorney who verified the suit plaint has admittedly expired. Thereafter, Plaintiffs have filed pursis at Exh. 43 wherein it was mentioned that pursuant to the death of the first power of attorney holder, Plaintiffs have now executed a fresh power of attorney in favour of one Sakina Firoz when the Plaintiffs had last visited India. She would submit that the ratification of the suit plaint by the newly

appointed constituted power of attorney is invalid in law as it does not conform with the provisions of the Code of Civil Procedure,. 1908. She would further submit that the second objection raised by Petitioner is with respect to payment of inadequate court fees.

3. Be that as it may, an arguable case has been made out by the Petitioner.

4. In view of the above, Issue notice to the Respondents. Humdast permitted.

5. In addition to Court's notice, Petitioner is directed to serve the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

6. After receiving the notice, Respondents to file affidavit-in-reply within one week. Rejoinder if any shall be filed within on or before the next date.

7. In the meanwhile, proceedings before the learned Trial Court shall stand stayed.

8. Stand over to **13th March, 2023.**

[MILIND N. JADHAV, J.]

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signed by
RAVINDRA
MOHAN
AMBERKAR
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