

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14130 OF 2023

Anjana @ Anjubai Uddhav Sankpal and Ors. .. Petitioners

Versus

Hirachand Jarinath Shinde and Anr. .. Respondents

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- Mr. Dadhichi S. Mhaispurkar a/w. V. S. Mhaispurkar, Advocates for Petitioners.
- Mr. Sarthak Diwan, Advocate for Respondent No.1.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 16, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Mhaispurkar, learned Advocate for Petitioners and Mr. Diwan, learned Advocate for Respondent No.1.
- 3.** Perused the praecipe dated 07.02.2024 and the Writ Petition.
- 4.** The impugned order is at Exhibit-E, page No.34 of the Writ Petition. It is order passed in Application filed by Defendants seeking issuance of production witness summons to an Officer / Employee of the Deputy Engineer, Zilla Parishad, Sub Division – Barshi Tehsil to attend the Court alongwith register maintaining record of beneficiaries under the ‘जवहार विहिर योजना’, *inter alia*, pertaining to the year 2008.
- 5.** Mr. Mhaispurkar would fairly submit that documents in

evidence namely certified copies in respect of benefit derived by Plaintiffs have already been placed on record and are marked as Exhibits in evidence by the Court. In that regard, he has drawn my attention to page No.31 of the Writ Petition and more specifically paragraph No.4 thereof.

6. The impugned order infact does not disturb or in any respect prejudice the case of the Defendants who are Petitioners before me. It is a detailed order with cogent reasons stating that Plaintiffs are presently undergoing witness action and pursuant to Plaintiffs' evidence, if Defendants desire to refer to and rely upon any appropriate witness action then they shall be entitled to rely upon their evidence under the Indian Evidence Act, 1872.

7. That apart, considering the fact that Defendants have produced certified copies of the concerned documents, it shall always be open to the Defendants to refer to and rely upon them in and / or during their witness action in rebuttal. Considering that this right has already been reserved and more specifically so because the certified copies of the contentious documents have already been marked by the Trial Court, it is clarified that it shall be open to Defendants to refer to and rely upon the provisions of Section 62 read with Section 64 of Indian Evidence Act, 1872 since these documents are primary evidence in the eyes of law.

8. In view of the above, I find no reason to interfere with the order dated 05.07.2023. Hence order dated 05.07.2023 is sustained. Needless to state that all contentions of parties are expressly kept open. In view of the fact that this suit is of the year 2012, at joint request of the learned Advocates for the respective parties, I request the learned Trial Court to dispose of the present suit as expeditiously as possible and preferably within a period of 12 months from today. Parties to the Suit are directed by this Court not to seek adjournments and the learned Trial Court shall not give any unnecessary adjournments to the parties unless absolutely necessary. Adjournments shall be granted only at the discretion of the Trial Court. Both the learned Advocates have assured the Court that they shall ensure that the suit gets disposed of within the above time frame.

9. With the above directions, Writ Petition is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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