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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8250 OF 2022

Jayprakash Nanaso Gaikwad and Ors.

.. Petitioners

Versus

Arun Ramchandra Patil and Anr.

.. Respondents

.....

- Mr. Rajaram Vaman Bansode, Advocate for Petitioners.
- Mr. Tejash Dande, Advocate for Respondents.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 05, 2024.

P.C.:

1. Heard Mr. Bansode, learned Advocate for Petitioners and Mr. Dande, learned Advocate for Respondents.

2. The principal impugned order is dated 25.03.2022 passed below Exhibit “253” which is at Exhibit “V” - page No.237 of the Writ Petition.

3. Though Application was filed by Plaintiff No.1 seeking impounding of the original deed dated 21.06.1993 filed by Defendant in his list of documents below Exhibit “120”, reading of the impugned order reveals that the said document has not been exhibited by the learned Trial Court despite Defendant No.1 adducing evidence to that effect in his Affidavit in evidence. This is in view of the fact that the Application filed by Plaintiff No.1 sought impounding of the said

document. That particular Application and case of Plaintiff No.1 has infact been reserved by the learned Trial Court while considering the Application filed under Exhibit “253”. In paragraph No.11, the learned Trial Court has categorically observed that it shall decide the issue of impounding the said document as and when Defendant No.1 would try to adduce evidence or rely upon it. This is the only reservation expressed by Mr. Dande which is infact been considered and taken care of by the Trial Court.

4. Though, this Court after hearing Mr. Bansode on the previous occasion on 31.01.2024 made it clear that this Court was not inclined to pass any orders unless the order dated 25.03.2022 is complied with in its letter and spirit by Plaintiff No.1, today Mr. Bansode would submit that Plaintiff No.1 is present in Court and he has given instructions to him to submit that the order dated 25.03.2022 shall be complied with by him within a period of four weeks from today. Resultantly, Plaintiff No.1 has agreed to deposit the costs of Rs.50,000/- awarded and as directed by the aforesaid order within four weeks from today with a caveat that no further extension of time shall be allowed to the Plaintiff No.1 in default thereof.

5. Resultantly if the said costs are paid, Application below Exhibit “246” shall stand allowed thereafter and the order dated 22.03.2022 shall stand quashed and set aside.

6. It is further clarified that, if the aforesaid costs are paid as directed by this Court, the order dated 25.03.2022 passed below Exhibit “12” in the counter claim which is at Exhibit “Y” - page No.247 of the Writ Petition shall also stand quashed and set aside.

7. With the above directions, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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