

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11425 OF 2023

Ravindra Dattatray Thakur and Ors.

.. Petitioners

Versus

Vaibhav Suresh Thakur and Anr.

.. Respondents

-
- Mr. Sagar Joshi a/w. Mr. Vinod Utekar, Advocate for Petitioners.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 17, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Joshi, learned Advocate for Petitioners.
- 3.** Perused the praecipe dated 17.04.2024 and the Writ Petition.
- 4.** Mr. Joshi would submit that contentious document has been exhibited as Exhibit-83. Writ Petitioners are the original Defendants.
- 5.** The impugned order dated 06.08.2018 passed below Exhibit-81 in Regular Civil Suit No.679 of 2012 rejects the Application seeking de-exhibiting of the said document. Once the learned Trial Court has observed that the said document is a public document which is infact a public notice and the said public document has been proved in consonance with the provisions of Section 62 read with Section 64 of the Indian Evidence Act, 1872 (for short '**the said Act**') the said document stands proved by primary evidence.

6. Needless to state that Defendants' right to cross-examine the Plaintiff on the said public notice is always available to the Defendants in accordance with law.

7. I do not find any reason to therefore interfere with the cogent reasons returned by the learned Trial Court in paragraph No.5 of the order dated 06.08.2018. Resultantly, the order dated 06.08.2018 is sustained with a clarification that Defendants shall be entitled to cross-examine the Plaintiff on the said document strictly in accordance with law. The learned Trial Court has incidentally while returning the reasons has clearly stated that mere exhibiting of the document would not amount to proving the contents of the said document and proving of its existence are altogether different. The Defendants' Application has therefore been rightly rejected by the learned Trial Court. Needless to state that Defendants shall be entitled to cross-examine Plaintiff on Plaintiff's case as also all documents which have been exhibited by the learned Trial Court strictly in accordance with law.

8. Since the suit is filed in the year 2012, the learned Trial Court is requested by this Court to determine and decide the suit proceedings as expeditiously as possible and in any event within a period of eight months from today. Parties are directed to co-operate with the learned Trial Court for expeditious disposal of Regular Civil

Suit No.679 of 2012. Parties are directed not to take any unnecessary adjournments and co-operate with the learned Trial Court. Trial Court is directed to give adjournments only if they are utmost necessary and decide Regular Civil Suit No.679 of 2012 strictly in accordance with law. All contentions of the parties are expressly kept open.

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

H. H. SAWANT

[MILIND N. JADHAV, J.]

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