

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1928 OF 2024

Ravikumar Jethappa Kurne

.. Petitioner

Versus

Bharat Kisan Mekale and Ors.

.. Respondents

.....

- Mr. Prasad Pradeep Kulkarni, Advocate for Petitioner.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 14, 2024

P.C.:

- 1.** Heard Mr. Kulkarni, learned Advocate for Petitioner.
- 2.** At the time of rising of Court, Mr. Kulkarni has mentioned this matter.
- 3.** Writ Petition takes exception to the order passed by the Appellate Court in Regular Civil Appeal rejecting the contention of the Appellant for leading secondary evidence despite the order passed by this Court as also the Appellate Court directing the learned Trial Court to consider and take on record the additional affidavit of evidence of the Petitioner.
- 4.** Mr. Kulkarni would argue that there is a clear error apparent on the face on record as rejection of the Application of the Petitioner from leading secondary evidence has been incorrectly denied despite this Court's order.
- 5.** An arguable case has been made out for issuance of notice. Hence, issue notice to the Respondents. Petitioner is directed to serve

the Respondents. Humdast permitted. In addition to Court's notice, Petitioner is permitted to serve the Respondents a copy of this order and Petition 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. Respondents, if so desire, shall file their Affidavit-in-Reply on or before the next date. It is clarified that if no Affidavit-in-Reply is filed, this Court shall proceed with the hearing and determining the same at stage of admission after perusing the plaint.

6. Respondents are directed to take cognizance of the above order.

7. Considering that the Appeal has now been listed for final arguments, Mr. Kulkarni has pressed for ad-interim relief. In view of the above observations, the learned Appellate Court is directed to defer hearing of Regular Civil Appeal proceedings until the next adjourned date, on which date this Court shall determine the present Writ Petition.

8. Stand over to **29th February, 2024** at 02.30 p.m.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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