

Ajay

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

WRIT PETITION NO. 8512 OF 2024

M/s. Vertex Realtors and Anr.

.. Petitioners

Versus

Sumeet Pritamdas Rewari

.. Respondent

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- Mr. Ashwin Vasista a/w. Mr. Aishwary Manjarekar and Mr. Tushar Ambekar i/by Mr. Abhiraj Parab, Advocates for Petitioners.
 - Mr. Uday Bhanusinh a/w. Mr. Ivor Peter D'cruz, Advocates for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : JULY 12, 2024.

P.C.:

- 1.** Not on Board. Mentioned. Taken on Board.
- 2.** Heard Mr. Vasista, learned Advocate for Petitioners and Mr. Bhanusinh, learned Advocate for Respondent.
- 3.** Mr. Bhanusinh enters appearance on behalf of Respondent.
- 4.** Mr. Vasista in his usual fairness has taken me through the issue in the present Writ Petition and would submit that the Writ Petitioners be allowed to withdraw the present Writ Petition, however he seeks certain directions from the Court.
- 5.** It is an admitted position that certain documents which were exhibited *ex parte* by the Court which are the subject matter of the

Suit. According to Defendants, subsequently when leave to defend was granted to Defendants and when they came on record, Defendants desired to object to the exhibiting of the documents by Plaintiff. However, it is equally an admitted position that witness action of Plaintiff's witness on those very documents is over and Defendants have cross-examined the witness of the Plaintiff on the said documents.

6. In that view of the matter, Application made by Defendants for de-exhibiting the documents was rejected by the learned Trial Court and that order is impugned before me.

7. I have impressed upon Mr. Vasista that it shall be open to the Defendants to refer to and rely upon the documents which have been exhibited by the learned Trial Court strictly in accordance with law. Undoubtedly, rights of either party i.e. the Plaintiff and Defendants can never be taken away to agitate the legality, validity and admissibility of the documents which are exhibited by the Trial Court. It needs to be reiterated here that while exhibiting the documents, even if it is done *ex parte*, the Trial Court follows the regime of the Indian Evidence Act, 1872 for exhibiting the documents and therefore even if such an exercise is indeed followed, if either of the parties has a grievance on any particular document, undoubtedly that party can apply to the Trial Court.

8. Considering that witness action by Defendants has already progressed, the impugned order cannot be interfered with. All contentions of the parties are therefore expressly kept open on the documents which have been exhibited.

9. I am informed that the learned Trial Court is seized with the final arguments of the Defendants today. The learned Trial Court shall continue with the hearing of the Suit proceedings strictly in accordance with law and follow the directions which are given herein above.

10. Writ Petition is disposed of as withdrawn in the above terms.

[MILIND N. JADHAV, J.]

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by AJAY
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