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

WRIT PETITION NO. 10797 OF 2024

Changdev Rambhau Ghumare and Anr. .. Petitioners

Versus

~~Madhu Maruti Jadhav~~ (since deceased),
Through Legal Heirs Anusaya Madhu Jadhav
and Ors. .. Respondents

-
- Mr. P.D. Dalvi a/w. Mr. Rahul Kasbekar and Mr. Rushikesh Patil, Advocates for Petitioners.
 - Mr. Anuj Tiwari, Advocate for Respondent Nos.1 to 8.
 - Mr. Ajinkya Jaibahve, Advocate for Respondent Nos.9 to 11.

.....
CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 02, 2024.

P.C.:

1. Heard Mr. Dalvi, learned Advocate for Petitioners; Mr. Tiwari, learned Advocate for Respondent Nos.1 to 8 and Mr. Jaibhave, learned Advocate for Respondent Nos.9 to 11.

2. Mr. Dalvi, learned Advocate for Petitioners are Defendant Nos.5 and 6 in the Suit proceedings pending before the Trial Court. The impugned order rejects the Application filed by Defendant Nos.5 and 6 seeking to exhibit one particular document namely unregistered sale deed which was specifically referred to by Defendant Nos.5 and 6 in their amended counter claim in paragraph No.12 thereof. The said counter claim is part of the pleadings admittedly.

3. Once that is the position, there can be no reason for not exhibiting the document in view of the settled position of law, however subject to Defendant Nos.5 and 6 proving the contents of the said document strictly in accordance with law.

4. Today, I have heard Mr. Jaibhave, learned Advocate for Defendant Nos.1, 3 and 5 as also Mr. Tiwari, learned Advocate for the Plaintiffs before the Trial Court and in their usual fairness, both the learned Advocates do not defer with the settled legal position. They would submit that the onus of proving its contents shall be on Defendant Nos.5 and 6 which they will have to prove strictly in accordance with law. There can be absolutely no quarrel with the propositions and the submissions made by Mr. Jaibhave and Mr. Tiwari.

5. In view of the above, the impugned order dated 06.04.2024 stands quashed and set aside. Resultantly the said document which is rejected by the impugned order shall stand exhibited in evidence as Exhibit.

6. Needless to state that on exhibiting the said document, it will not amount to Defendant Nos.5 and 6 having proved its contents and the onus of proving its contents shall be on Defendant Nos.5 and 6 strictly in accordance with law.

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

[MILIND N. JADHAV, J.]

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