

Sharayu

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 716 OF 2008

Fatehali Hassanali Karim & Ors. ...Plaintiffs
Versus
Gulamhussein Abdulaziz Karim & Ors. ...Defendants

Mr. V.J. Makhija, *a/w Hussein Rizvi i/b M/s. Thakore Jarimala & Associates, for the Plaintiffs.*
Mr. Nimay Dave, *i/b M/s. M.K. Ambalal & co., for the Defendants*
No. 5 & 6.

CORAM: G.S. PATEL, J
DATED: 9th March 2015

PC:-

1. The Defendants Nos. 5 to 7 seek to prove in evidence 13 documents. An Affidavit in lieu of Examination in Chief dated 16th December 2014 of one Shehnaz Badruddin Karim, the 5th Defendant *inter alia* deposing to these documents is on record. Mr. Makhija, learned Counsel for the Plaintiffs, who have closed their case, has no objection to these documents being marked subject to his right to cross examine the witness on all of them. With that express qualification and liberty, the documents at Sr.No.1 to 13 are taken on record and marked in evidence as **Exh.D5/1 to Exh.D5/13.**

2. By consent, Mr. Rohan Sawant is appointed as a Commissioner and is requested to record the cross-examination of the Defendants' first witness. Further, Mr. Sawant is at liberty to exercise his discretion under Order XVIII Rule 4(4) of the Code of Civil Procedure, 1908, to note the demeanour of the witnesses where necessary. All cross-examination shall be conducted strictly in question and answer form. The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the court. Should that be done, the original audio visual recording will be submitted along with the Commissioner's Report to the Registry. Liberty to the parties as also to the Commissioner to apply in case of difficulty.
3. Costs of the commission shall be borne equally by both parties.
4. List the matter on 27th April 2015 for a status report including as to progress before the Commissioner.

(G. S. PATEL, J.)