

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO.984 OF 2007

Sanjeev Rajendra Pandit & Ors.Plaintiffs

V/s.

Om Prakash Sharma & Ors.Defendants

Mr.Vishal Kanade a/w Mr.Himanshu V.Pradhan i/by Cr.Bayley & Co.for plaintiffs.

Mr.Zain Mookhi i/by Mansukhlal Hiralal & Co. for defendant nos.1 & 2.

Ms.Hill Bootwalla i/by Nanu Hormasjee & Co. for defendant nos.3(B) to 3(E).

CORAM : K.R.SHRIRAM,J

DATE : 29.7.2016

P.C.:-

1 The suit is for a declaration that the alleged power of attorney and the alleged development agreement relied upon by defendant nos.1 & 2 are fraudulent and illegal and proceeds on the basis that defendant no.3 who has allegedly issued power of attorney was incapable to issue such power of attorney. Evidence of plaintiffs is closed. The counsel for defendant nos.1 & 2 submits and rightly so that the heirs of defendant no.3 i.e. defendant nos.3B to 3E have also taken a stand that the deceased defendant no.3 was in no position to execute such a power of attorney and are in effect supporting the plaintiffs to that extent. Therefore, counsel for defendant nos.1 & 2 submits that the defendants 3B to 3E should be leading their evidence first before defendants 1 & 2 are asked to lead evidence.

Mr.Kanade for the plaintiffs concurs with the submissions made by the counsel for the defendant nos. 1 & 2. Even this court is in agreement with the submission made by defendant nos. 1 & 2. Therefore, defendant nos. 3B to 3E to file their list of witnesses and affidavit in lieu of examination in chief and serve a copy thereof upon the plaintiffs and defendant nos. 1 & 2 together with list of witnesses within four weeks from today. To that extent the order dated 20.6.2016 is modified.

2 Stand over to 8.9.2016 for marking of documents on which date the first witness of defendant nos. 3B to 3E shall remain present.

(K.R.SHRIRAM,J)