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

WRIT PETITION (L) NO.199 OF 2015.

Ajit Pramod Talpade and Ors.

... Petitioners

Vs

Rajesh Banga and Ors.

... Respondents

Mr.R.S.Apte, Senior Counsel i/b Mr.Pankaj Pandey, for the Petitioners.

Mr.V.V.Tulzapurkar, Senior Counsel and Mr.Biren Saraj a/w Madhu Gadodia, Sankalp Dalal and Mansi Nair i/b Naik Naik & Co., for Respondent No.2.

Mr.N.R.Prajapati, for Respondent Nos.4 and 5.

**CORAM : V.M.KANADE &
REVATI MOHITE DERE, JJ.**

DATE : 29th JANUARY, 2015

P.C.:

1. By this petition, which is filed by the petitioners under Article 226 of the Constitution of India, the petitioners are seeking an appropriate writ or order thereby directing the respondent nos.1 and 2 not to release the movie named 'Hawaizaada' on 30th January, 2015.

The petitioners are also seeking other consequential reliefs. The contention of the petitioners is that the movie is based and inspired by the real life story of Pandit Shivkar Bapuji Talpade. It is submitted that the movie depicts the said Pandit Shivkar Bapuji Talpade in rampant style and a strong impression is created of the said person. Mr. Apte, learned Senior Counsel appearing on behalf of the petitioners submits that after the release of the said movie, the general public will carry an impression that it is the real story and biography of the said Pandit Shivkar Bapuji Talpade. It is submitted that the movie depicts incorrect facts and that the main character of the movie is shown as consuming liquor and it is shown that he is having illicit relationship with one bar dancer. It is therefore submitted that if the movie is released, it will misguide the public at large and it will mislead the perception of the general public regarding the great Indian scholar Pandit Shivkar Bapuji Talpade.

2. An affidavit-in-reply has been filed on behalf of the respondent no.2, and it is stated in the reply that the movie is a work of fiction. It is further submitted that it has a disclaimer which forms

a part of the film. It is clearly stated that the motion picture is in its entirety a work of fiction. It is further submitted that even otherwise there is no defamation of the said Pandit Shivkar Bapuji Talpade. Lastly, it is submitted that the petition is filed at a belated stage and the film is about to release on 30th January, 2015. It is submitted that even the promotion of the film has commenced in September/October, 2013. It is also submitted that the Central Board of Certification (CBFC), which is a statutory body incorporated under the Cinematograph Act, 1952 has granted a 'U' Certificate and the said Board after following due procedure of the said Act and the Guidelines which are framed thereunder has issued a valid censor certificate for exhibiting the said film. It is submitted that the petitioners therefore did not challenge the said Certificate.

3. We are of the view that taking into consideration the fact that disclaimer is being shown in the film, the grievance of the petitioners appears to be misconceived. The disclaimer reads as under:-

“While suggested by actual events, this motion

picture is in its entirety a work of fiction. Some character names have been invented, some character names have been composited or invented and some incidents have been fictionalised”.

4. Since the film is a work of fiction, the apprehension expressed by the petitioners in this petition is totally misconceived. We do not see any reason to issue a direction to grant any reliefs as prayed for by the petitioners. The petitioners also have an alternate remedy of filing a suit of defamation.

5. Taking into consideration all these facts, we are not inclined to exercise our writ jurisdiction under Article 226 of the Constitution of India for grant of any reliefs as claimed by the petitioners.

6. Writ Petition is accordingly disposed of.

REVATI MOHITE DERE, J.

V.M.KANADE, J.