

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

WRIT PETITION NO. 3354 OF 2026

Sanjay Aandrao Manjarekar Petitioner
Vs.
Snehalata Abhijit Kapase Respondent

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Mr. Gaus Nabi Mahat, Advocate for the Petitioner.
Mr. Shubham Dhenge, Advocate for the Respondent.

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**CORAM : SHAILESH P. BRAHME, J.
DATE : 11TH SEPTEMBER, 2026.**

ORDER :

. Heard both sides.

2. The order dated 15.04.2026 passed below Exhibit-48 is under challenge.

3. The grievance of the learned counsel appearing for the Petitioner is that the Plaintiff has taken out the Application Exhibit-48 after closure of the evidence. The Application Exhibit-48 is an attempt to fill up the lacuna. It is submitted that sufficient opportunity was given to them to examine the witness and that it is impermissible to entertain such application at the fag end of the proceedings.

4. Learned counsel appearing for the Respondents supports the impugned order. He would submit that the evidence of the

Plaintiff was closed on 22.01.2026. The evidence of the Petitioner-Defendant was closed on 17.03.2026. The Application Exhibit-48 was filed on 27.03.2026.

5. As the report prepared by the Court Commissioner was denied, the Respondent-Plaintiff was required to file Application Exhibit-48. The suit is for removal of encroachment and mandatory injunction. The Court Commissioner was appointed, and measurement reports were produced at Exhibits 22 and 31. In view of the denial of the reports, it would be necessary to examine the witness so as to prove the reports and give them probative value. The Plaintiff has examined only one witness. Thereafter, the Petitioner-Defendant closed his evidence on 17.03.2026. Immediately thereafter, Application Exhibit-48 was filed.

6. I do not find that any prejudice would be caused if the Respondent is permitted to examine the witnesses. The evidence of the proposed witness is necessary to decide the controversy and the law laid down in the Application.

7. I do not find any perversity or illegality in the impugned orders.

8. Writ Petition is **disposed of**.

[**SHAILESH P. BRAHME J.**]

Suresh