



CNR: KAHC010182292022

NC: 2026:KHC:44053  
W.P. No.8286/2022

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**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 18<sup>TH</sup> DAY OF AUGUST, 2026**  
**BEFORE**  
**THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**  
**WRIT PETITION NO.8286/2022 (GM-CPC)**

**BETWEEN:**

INTEGRATED SOLUTIONS  
NO.308, 6TH MAIN ROAD  
VIVEK NAGAR  
BENGALURU-560047  
REP. BY ITS PROPRIETOR  
SRI. S.R. GAUTAM  
S/O SRI. S. RADHAKRISHNAN  
AGED ABOUT 52 YEARS.

...PETITIONER

(BY SRI. P.D. SURANA, ADV.,)

**AND:**

Digitally signed  
by RUPA V  
Location:  
HIGH COURT  
OF  
KARNATAKA

SRI. B.P. ESHWAR SINGH  
S/O B.S. PRUTHVIRAJ SINGH  
MAJOR  
GROUND FLOOR, VAKIL SQUARE  
NO.56/3, BANNERGHATTA ROAD  
BANGALORE-560029.

...RESPONDENT

(BY SRI. SRINIVASA C, ADV.,)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER  
DTD.8.4.2022 MADE ON APPLICATION FILED UNDER ORDER  
VI, RULE 16 READ WITH SECTION 151 OF CPC AND RULE 3(2)  
OF KARNATAKA CIVIL RULES OF PRACTICE MADE IN  
O.S.NO.8853/2013 PENDING ON THE FILE OF THE VIII ADDL.



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CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH NO.19) AND THE ORDER DTD.12.4.2022 MADE ON APPLICATION FILED UNDER ORDER XVIII RULE 17 TO RECALL DW-1 AND THE ORDER MADE ON APPLICATION FILED UNDER SECTION 151 OF CPC FOR REOPENING THE CASE MADE IN O.S.NO.8853/2013 ON THE FILE OF THE VIII ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH NO.19) & ETC.

THIS W.P. HAVING BEEN HEARD AND RESERVED ON 12.08.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

**CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**

**CAV ORDER**

This writ petition is filed challenging the orders dated 12.04.2022 and 08.04.2022 passed in O.S.No.8853/2013 by the VII Additional City Civil and Sessions Judge, Bengaluru (for short, 'the Trial Court').

2. Sri.P.D.Surana, learned counsel appearing for the petitioner submits that in a suit filed by the petitioner-plaintiff for recovery of money, the respondent-defendant filed a written statement stating that the defendant has paid Rs.10,00,000/- and Rs.19,00,000/- and later filed an application for amendment of the written statement stating that the defendant has paid Rs.50,00,000/- in



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total, which was rejected by the Trial Court and affirmed by this Court. However, in his affidavit of examination-in-chief, he stated that the plaintiff has received Rs.53,00,000/- from him. Hence, the plaintiff filed an application seeking to strike off paragraphs 10 to 12 of the examination-in-chief of DW-1 and also an application to re-call the order, re-call DW-1 for cross-examination and permit the plaintiff to cross-examine DW-1. The Trial Court, under the impugned orders rejected the applications without assigning any reasons. It is submitted that when there is no pleading, the defendant cannot state the said facts in the evidence. The evidence beyond the pleading cannot be looked into by the Trial Court. In support of his contentions, he placed reliance on the following decisions:

- (1) KAUSHIK NARSINHBHAI PATEL AND OTHERS  
Vs. S.J.R. PRIME COPORATION PRIVATE  
LIMITED AND OTHERS<sup>1</sup>**
- (2) SMT. NALINI SUNDER Vs. SRI.G.V. SUNDER<sup>2</sup>**

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<sup>1</sup> (2024) 9 SCC 462



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**(3) BACHHAJ NAHAR Vs. NILIMA MANDAL AND ANOTHER <sup>3</sup>**

3. *Per contra*, Sri.Srinivasa C., learned counsel appearing for the respondent supports the impugned orders of the Trial Court and submits that DW-1 has not stated anything which was mentioned in the application for amendment of the written statement. It is submitted that there is no provision under the law to file an application seeking to strike off the evidence of a party. Hence, he seeks to dismiss the petition.

4. I have heard the arguments of the learned counsel for the petitioner, learned counsel for the respondent and meticulously perused the material available on record.

5. The plaintiff had filed O.S.No.8853/2013 against the defendant seeking the judgment and decree for a sum of Rs.92,71,000/- with interest @ 18% p.a. from

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<sup>2</sup> AIR 2003 KARNATAKA 86

<sup>3</sup> (2008) 17 SCC 491



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the date of suit till the date of realization. The defendant filed a written statement denying the plaint averments by stating that the defendant made payment of Rs.10,00,000/- in cash on 13.07.2011 which was accepted and acknowledged by the plaintiff and again, Rs.19,00,000/- in cash was paid to the plaintiff which was also accepted and acknowledged by the plaintiff. The defendant filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'the CPC') seeking amendment of the written statement. In the said proposed amendment, the defendant has stated that the defendant has paid a total sum of Rs.50,00,000/- to the plaintiff. The said application was rejected by the Trial Court which was assailed by the defendant before this Court in W.P.No.43830/2016. This Court, vide order dated 17.08.2021 dismissed the writ petition.

6. The defendant – DW-1 filed an affidavit in lieu of examination-in-chief. The plaintiff filed an application



under Order VI Rule 16 read with Section 151 of the CPC, and Rule 3(2) of the Karnataka Civil Rules of Practice, 1967, seeking prayer to strike off paragraphs 10 to 12 of the examination-in-chief of DW-1 on the ground that the defendant's evidence in lieu of examination-in-chief is beyond his pleadings. It is to be noticed that the amendment sought to the written statement of the defendant, wherein it was stated that the defendant had paid a total sum of Rs.50,00,000/- to the plaintiff was rejected and affirmed by this Court in a writ petition and despite the same, the said fact is brought in the affidavit evidence of DW-1. A perusal of the affidavit of DW-1 indicates at paragraph 11 that the defendant has paid Rs.53,00,000/- to the plaintiff and the said aspect and some other factual aspects referred in paragraphs 10 to 12 are beyond the pleadings of the defendant in the written statement.



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7. The only question that arises for consideration in this petition is :

***"Whether the petitioner's application for striking off paragraphs 10 to 12 of the affidavit evidence of DW-1, is permissible under law?"***

8. To answer the aforesaid issue, it would be useful to refer to the following decisions:

(1) The Hon'ble Supreme Court in the case of ***BACHHAJ NAHAR***, referred *supra* has held in paragraphs 12 and 13 as below:

***"12. The object and purpose of pleadings and issues is to ensure that the litigants come to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. Its object is also to ensure that each side is fully alive to the questions that are likely to be raised or considered so that they may have an opportunity of placing the relevant evidence appropriate to the issues before the court for its consideration. This Court has repeatedly held that the pleadings are meant to give to each side intimation of the case of the other so that it may be met, to enable courts to determine what is***



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*really at issue between the parties, and to prevent any deviation from the course which litigation on particular causes must take.*

**13.** *The object of issues is to identify from the pleadings the questions or points required to be decided by the courts so as to enable parties to let in evidence thereon. When the facts necessary to make out a particular claim, or to seek a particular relief, are not found in the plaint, the court cannot focus the attention of the parties, or its own attention on that claim or relief, by framing an appropriate issue. As a result the defendant does not get an opportunity to place the facts and contentions necessary to repudiate or challenge such a claim or relief. Therefore, the court cannot, on finding that the plaintiff has not made out the case put forth by him, grant some other relief. The question before a court is not whether there is some material on the basis of which some relief can be granted. The question is whether any relief can be granted, when the defendant had no opportunity to show that the relief proposed by the court could not be granted. When there is no prayer for a particular relief and no pleadings to support such a relief, and when the defendant has no opportunity to resist or oppose such a relief, if*



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the court considers and grants such a relief, it will lead to miscarriage of justice. Thus it is said that no amount of evidence, on a plea that is not put forward in the pleadings, can be looked into to grant any relief."

(emphasis supplied)

(2) The Hon'ble Supreme Court in the case of **KAUSHIK NARSINHBHAI**, referred *supra* has held in paragraph 23 as under:

**"23.** *In the context of the aforesaid provisions under the CPC, it is apt to refer to a decision of a Division Bench of the Karnataka High Court in Nalini Sunder v. G.V. Sunder [Nalini Sunder v. G.V. Sunder, 2002 SCC OnLine Kar 511 : AIR 2003 Kar 86] . It was held therein that a party could not make out a case on the basis of evidence for which he/she has laid no foundation in the pleadings. It is fairly settled that no amount of evidence can prove a case of a party who had not set up the same in his/her pleadings, it was further held therein."*

(Emphasis supplied)



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(3) This Court in the case of **SMT.NALINI SUNDER**, referred *supra*, has held in paragraph 9 as below:

*"9. The second incident to which our attention was drawn by the learned Counsel for the husband was that on one of the occasions when the husband asked for a cup of coffee, the wife retorted that she need not be told about her duties as a wife. This according to the husband caused mental anguish to him. Significantly, there is no allegation made in the divorce petition to that effect. The incident is narrated by the husband only in his deposition before the Court. If the incident had actually taken place and had caused any mental anguish to the husband so as to be made a basis for a decree for dissolution, there is no reason why the same ought not to have been accurately described in the petition filed before the Court below. A party cannot make out a case on the basis of evidence for which he/she has laid no foundation in the pleadings. It is fairly well settled that no amount of evidence can prove a case for a party who has not set up the same in his/her pleadings. That apart, the incident does not prove a persistent course of conduct on the part of the wife so as to make it difficult for the husband to*



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*live with the wife. There is even otherwise, no corroboration forthcoming to support the allegation made by the husband. Much cannot therefore be made out of the incident nor can the same by itself support a plea for dissolution of the wedlock."*

*(emphasis supplied)*

(4) The Hon'ble Supreme Court in the case of **AMEER TRADING CORPORATION LTD. Vs. SHAPOORJI DATA PROCESSING LTD.**<sup>4</sup> has held in paragraphs 9 to 32 as below:

**"9.** *The learned counsel would urge that the Code of Civil Procedure (Amendment) Act, 1976 (sic 2002) was enacted with a view to do away with the unnecessary wastage of time which may be taken for examination of a witness.*

**10.** *Mr Nariman would urge that Order 18 Rule 5 should be read with Order 18 Rule 13 so as to decipher the difference between the cases where an appeal is allowed and where an appeal is not allowed. Order 18 Rule 5, the learned counsel would submit, merely lays down the procedure for taking the evidence of the witness. In support of*

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<sup>4</sup> (2004)1 SCC 702



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*the said contention, reliance has been placed on F.D.C. Ltd. v. Federation of Medical Representatives Assn. India (FMRAI) [AIR 2003 Bom 371] .*

**11.** *Order 18 Rule 4 as it originally stood reads as under:*

*"4. Witnesses to be examined in open court.— The evidence of the witnesses in attendance shall be taken orally in open court in the presence and under the personal direction and superintendence of the judge."*

**12.** *Order 18 Rules 4(1), (2) and (3) as they now stand read as under:*

*"4. Recording of evidence.—(1) In every case, the examination-in-chief of a witness shall be on affidavit and copies thereof shall be supplied to the opposite party by the party who calls him for evidence:*

*Provided that where documents are filed and the parties rely upon the documents, the proof and admissibility of such documents which are filed along with affidavit shall be subject to the orders of the court.*

*(2) The evidence (cross-examination and re-examination) of the witness in attendance, whose evidence (examination-in-chief) by affidavit has*



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*been furnished to the court, shall be taken either by the court or by the Commissioner appointed by it:*

*Provided that the court may, while appointing a commission under this sub-rule, consider taking into account such relevant factors as it thinks fit.*

*(3) The court or the Commissioner, as the case may be, shall record evidence either in writing or mechanically in the presence of the judge or of the Commissioner, as the case may be, and where such evidence is recorded by the Commissioner he shall return such evidence together with his report in writing signed by him to the court appointing him and the evidence taken under it shall form part of the record of the suit."*

**13.** *The other sub-rules of Rule 4 of Order 18 provide for other and further procedures as regards examination of witness.*

**14.** *Rule 5 refers to the evidence which is required to be taken in cases where the appeal is allowed in contradistinction with the cases where appeal is not allowed as envisaged in Rule 13 of Order 18 of the Code of Civil Procedure. Rule 5, therefore, envisages a situation where the court is required to take down an evidence in the manner laid down therein which would mean that where*



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*cross-examination or re-examination of the witness is to take place in the court.*

**15.** *The examination of a witness would include evidence-in-chief, cross-examination or re-examination. Rule 4 of Order 18 speaks of examination-in-chief. The unamended rule provided for the manner in which "evidence" is to be taken. Such examination-in-chief of a witness in every case shall be on affidavit.*

**16.** *The aforementioned provision has been made to curtail the time taken by the court in examining a witness-in-chief. Sub-rule (2) of Rule 4 of Order 18 of the Code of Civil Procedure provides for cross-examination and re-examination of a witness which shall be taken by the court or the Commissioner appointed by it.*

**17.** *We may notice that Rule 4 of Order 18 as amended with effect from 1-7-2002 specifically provided thereunder that the examination-in-chief in every case shall be on affidavit. Rule 5 of Order 18 had been incorporated even prior to the said amendment.*

**18.** *Rule 4 of Order 18 does not make any distinction between appealable and non-appealable*



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*cases so far as mode of recording evidence is concerned. Such a difference is to be found only in Rules 5 and 13 of Order 18 of the Code.*

**19.** *It, therefore, appears that whereas under the unamended rule, the entire evidence was required to be adduced in court, now the examination-in-chief of a witness including the party to a suit is to be tendered on affidavit. The expression "in every case" is significant. What thus remains viz. cross-examination or re-examination in the appealable cases will have to be considered in the manner laid down in the rules, subject to the other sub-rules of Rule 4.*

**20.** *Rule 5 of Order 18 speaks of the other formalities which are required to be complied with. In the cases, however, where an appeal is not allowed, the procedures laid down in Rule 5 are not required to be followed.*

**21.** *In a situation of this nature, the doctrine of suppression of mischief rule as adumbrated in Heydon's case [(1584) 3 Co Rep 7a : 76 ER 637] shall apply. Such an amendment was made by Parliament consciously and, thus, full effect thereto must be given.*



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**22.** *In Halsbury's Laws of England, Vol. 44(1), 4th Reissue, para 1474, pp. 906-07, it is stated:*

*"Parliament intends that an enactment shall remedy a particular mischief and it is therefore presumed that Parliament intends that the court, when considering, in relation to the facts of the instant case, which of the opposing constructions of the enactment corresponds to its legal meaning, should find a construction which applies the remedy provided by it in such a way as to suppress that mischief. The doctrine originates in Heydon's case [(1584) 3 Co Rep 7a : 76 ER 637] where the Barons of the Exchequer resolved that for the sure and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law), four things are to be discerned and considered:*

*(1) what was the common law before the making of the Act;*

*(2) what was the mischief and defect for which the common law did not provide;*

*(3) what remedy Parliament has resolved and appointed to cure the disease of the commonwealth; and*

*(4) the true reason of the remedy;  
and then the office of all the judges is always to make such construction as shall:*

*(a) suppress the mischief and advance the remedy; and*

*(b) suppress subtle inventions and evasions for the continuance of the mischief pro privato commodo (for private benefit); and*

*(c) add force and life to the cure and remedy according to the true intent of the makers of the Act pro publico (for the public good)."*

**23.** *Heydon's rule has been applied by this Court in a large number of cases in order to suppress the mischief which was intended to be remedied as against the literal rule which could have otherwise*



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*covered the field. (See for example, Parayankandiyal Eravath Kanapravan Kalliani Amma v. K. Devi [(1996) 4 SCC 76 : AIR 1996 SC 1963] ; Bengal Immunity Co. Ltd. v. State of Bihar [AIR 1955 SC 661] and Goodyear India Ltd. v. State of Haryana.)*

**24.** *It is now well settled that for the purpose of interpretation of statute, the same has to be in its entirety.*

**25.** *Furthermore, in a case of this nature, principles of purposive construction must come into play. (See Indian Handicrafts Emporium v. Union of India [(2003) 7 SCC 589] .)*

**26.** *In Chief Justice of A.P. v. L.V.A. Dixitulu [(1979) 2 SCC 34 : 1979 SCC (L&S) 99] this Court observed: (SCC p. 53, para 66)*

*"66. The primary principle of interpretation is that a constitutional or statutory provision should be construed 'according to the intent of they that made it' (Coke). Normally, such intent is gathered from the language of the provision. If the language or the phraseology employed by the legislation is precise and plain and thus by itself proclaims the legislative intent in unequivocal terms, the same must be given effect to, regardless of the consequences that may follow. But if the words used in the provision are imprecise, protean or evocative or can reasonably bear meanings more than one, the rule of strict grammatical construction ceases to be a sure guide to reach at the real*



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*legislative intent. In such a case, in order to ascertain the true meaning of the terms and phrases employed, it is legitimate for the court to go beyond the arid literal confines of the provision and to call in aid other well-recognised rules of construction, such as its legislative history, the basic scheme and framework of the statute as a whole, each portion throwing light on the rest, the purpose of the legislation, the object sought to be achieved, and the consequences that may flow from the adoption of one in preference to the other possible interpretation."*

**27.** *In Kehar Singh v. State (Delhi Admn.) [(1988) 3 SCC 609 : 1988 SCC (Cri) 711 : AIR 1988 SC 1883] this Court held: (SCC p. 718, para 231)*

*"But, if the words are ambiguous, uncertain or any doubt arises as to the terms employed, we deem it as our paramount duty to put upon the language of the legislature rational meaning. We then examine every word, every section and every provision. We examine the Act as a whole. We examine the necessity which gave rise to the Act. We look at the mischiefs which the legislature intended to redress. We look at the whole situation and not just one-to-one relation. We will not consider any provision out of the framework of the statute. We will not view the provisions as abstract principles separated from the motive force behind. We will consider the provisions in the circumstances to which they owe their origin. We will consider the provisions to ensure coherence and consistency within the law as a whole and to avoid undesirable consequences."*



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**28.** *In District Mining Officer v. Tata Iron & Steel Co. [(2001) 7 SCC 358 : JT (2001) 6 SC 183] this Court stated: (SCC p. 383, para 18)*

*"The legislation is primarily directed to the problems before the legislature based on information derived from past and present experience. It may also be designed by use of general words to cover similar problems arising in future. But, from the very nature of things, it is impossible to anticipate fully the varied situations arising in future in which the application of the legislation in hand may be called for and words chosen to communicate such indefinite referents are bound to be in many cases, lacking in clarity and precision and thus giving rise to controversial questions of construction. The process of construction combines both literal and purposive approaches. In other words, the legislative intention i.e. the true or legal meaning of an enactment is derived by considering the meaning of the words used in the enactment in the light of any discernible purpose or object which comprehends the mischief and its remedy to which the enactment is directed."*

**29.** *In East India Hotels Ltd. v. Union of India [(2001) 1 SCC 284] this Court observed: (SCC p. 289, para 10)*

*"An Act has to be read as a whole, the different provisions have to be harmonized and the effect has to be given to all of them."*

**30.** *In Laxman Das [AIR 2003 Raj 74] the Rajasthan High Court held: (AIR p. 78, para 16)*

*"16. Therefore, in view of the above, the words 'in every case', contained in Rule 4 of Order 18 have to be understood in a limited sense that every case wherein the ultimate*



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*order is not appealable, and by no means, it can take in its ambit the orders which would be appealable. In view of above, the position which emerges is that in cases where the final orders to be passed by the court would not be appealable, the discretion has been conferred upon the court to accept the examination-in-chief in the form of affidavit as provided under Order 18 Rule 4, or to record the substance thereof by the court itself as provided under Order 18 Rule 13. But in cases where orders would be appealable, the evidence is to be recorded strictly as provided under Order 18 Rule 5."*

**31.** *On the other hand, in F.D.C. Ltd. [AIR 2003 Bom 371] it has been held: (AIR pp. 374-75, paras 7-8)*

*"The harmonious reading of Rules 4 and 5 of Order 18 would reveal that while in each and every case of recording of evidence, the examination-in-chief is to be permitted in the form of affidavit and while such evidence in the form of affidavit being taken on record, the procedure described under Rule 5 is to be followed in the appealable cases. In non-appealable cases, the affidavit can be taken on record by taking resort to the provisions of law contained in Rule 13 of Order 18. In other words, mere production of the affidavit by the witness will empower the court to take such affidavit on record as forming part of the evidence by recording the memorandum in respect of production of such affidavit taking resort to Rule 13 of Order 18 in all cases except in the appealable cases wherein it will be necessary for the court to record evidence of production of the affidavit in respect of examination-in-chief by asking the deponent to produce such affidavit in accordance with Rule 5*



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*of Order 18. Undoubtedly, in both the cases, for the purpose of cross-examination, the court has to follow the procedure prescribed under sub-rule (2) of Rule 4 read with Rule 13 in case of non-appealable cases and the procedure prescribed under sub-rule (2) of Rule 4 read with Rule 5 in appealable cases.*

*In other words, in the appealable cases though the examination-in-chief of a witness is permissible to be produced in the form of affidavit, such affidavit cannot be ordered to form part of the evidence unless the deponent thereof enters the witness box and confirms that the contents of the affidavit are as per his say and the affidavit is under his signature and this statement being made on oath is to be recorded by following the procedure prescribed under Rule 5. In non-appealable cases, however, the affidavit in relation to examination-in-chief of a witness can be taken on record as forming part of the evidence by recording memorandum of production of such affidavit by taking resort to Rule 13 of Order 18. The cross-examination of such deponent in case of appealable cases will have to be recorded by complying with the provisions of Rule 5, whereas in case of non-appealable cases the court would be empowered to exercise its power under Rule 13.*

**32.** *We agree with the view of the Bombay High Court."*

9. Keeping in mind the enunciation of law laid down by the Hon'ble Supreme Court and this Court referred *supra*, what emerges is that if any objection is raised stating that the affidavit in lieu of examination-in-



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chief is beyond the pleadings, in such circumstances, the party has option **firstly** to raise objection before the Trial Court by filing the written objections, pointing out that the affidavit in lieu of examination-in-chief is beyond the pleading and the Trial Court is bound to consider the same at the time of deciding the suit. **Secondly**, the party has an option to bring the said aspect to the witness at the time of cross-examination by specifically pointing out that his/her affidavit in lieu of examination-in-chief is contrary to the pleadings or beyond pleading and even insist the concerned Court for marking of such portion as an exhibit. **Thirdly**, the party or his counsel has an option to point out to the Court at the time of final arguments that the affidavit in examination-in-chief of a particular person is beyond the pleading or contrary to the pleadings. Under such circumstances, the Court is duty bound to consider such objections and record its reason in the final order. It is well settled principle of law that there cannot be any evidence without there being any pleadings.



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10. The very object of amending Rule 4 of Order XVIII of the CPC, is to ensure that there is speedy trial and that the time of the Court is not wasted in recording the lengthy examination-in-chief. Considering the said object, the party cannot seek to strike off a portion of the affidavit in lieu of the examination-in-chief of a party on the ground that it is beyond the pleadings and there is no such mechanism provided under the CPC. The option available to the party is to raise the objection that the affidavit in lieu of examination-in-chief of a party, is beyond the pleadings and the party cannot travel contrary to his pleadings. He is permitted to raise such objection at the appropriate stage.

11. In view of the preceding analysis, I am of the considered view that the Trial Court though without assigning any reasons rejected the application of the plaintiff which was filed to strike off paragraphs 10 to 12 of the examination-in-chief of DW-1. The same does not



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call for any interference in view of the reasons stated *supra*, by permitting the plaintiff to raise objections to the examination-in-chief of DW-1 in a manner provided.

12. The petitioner's applications to re-open the stage, re-call DW-1 for cross-examination is required to be allowed by permitting the plaintiff to cross-examine DW-1 in view of the aforesaid observations and in order to provide an opportunity to the plaintiff, otherwise, the affidavit in lieu of examination-in-chief of DW-1 would be without cross-examination.

13. For the aforementioned reasons, I proceed to pass the following:

**ORDER**

(i) The writ petition is ***allowed-in-part.***

Consequently, the application filed by the petitioner-plaintiff under Section 151 of the CPC, to cross-examine DW-1 is allowed.



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(ii) Further, the petitioner-plaintiff is at liberty to raise objection as stated *supra*.

No order as to costs.

**Sd/-**  
**(VIJAYKUMAR A. PATIL)**  
**JUDGE**

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