

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1791 OF 2015

Anjanabai Khandu Wadhe

PETITIONER

VERSUS

Parwatabai Girdhar Nikam & others

RESPONDENTS

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Mr. Ajit M. Gholap, Advocate for the petitioner
Mr. G. V. Wani, Advocate for respondent No.1

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[CORAM : SUNIL P. DESHMUKH, J.]
DATE : 18th MARCH, 2015

ORDER :

1. Heard Mr. Gholap, learned advocate for the petitioner and Mr. Wani, learned advocate for respondent No.1.

2. The petition has been moved against order dated 1st October, 2014 whereby the Civil Judge, Junior Division, Jamner has refused the request of the petitioner - defendant No.5 of setting aside the order of "*No Written Statement*" and to allow her to file written statement in the contended changed circumstances and production of documents referred to in *pursis* at Exhibit-85 filed by the plaintiff.

3. In view of order dated 25th February, 2015 of this court, scope of the present petition is restricted to production of document, as referred to in *pursis* Exhibit-85.

4. Perusal of the impugned order shows that request of the petitioner - defendant No.5 primarily has not been considered for

the reason that the plaintiff had closed her evidence and she had been cross-examined by defendant No.5 and the matter was posted for evidence of the defendants. While it is being contended by the learned counsel for the petitioner that production of said document is likely to aid cause of defendant No.5, learned counsel for the plaintiff thinks otherwise. It is being submitted that it cannot be read to the detriment of the plaintiff, if at all it comes to rely on the same. However, this would be a case after the stage of production.

5. In view of aforesaid, I deem it appropriate to set aside the impugned order only to the extent it concerns production of document and allow production of the document referred to in *pursis* Exhibit-85, subject, however, to payment of costs of Rs.2000/-. As such, Exhibit-90 stands allowed to aforesaid extent only, open to treatment to the same in accordance with law.

6. In the result, the writ petition stands partly allowed. Order dated 1st October, 2014 passed by Civil Judge, Junior Division, Jamner is set aside to the extent of refusal to allow production of document referred to in *pursis* Exhibit-85 and Exhibit-90 is allowed to that extent only, open to treatment to the same in accordance with law.

[SUNIL P. DESHMUKH, J.]