

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

WRIT PETITION NO.2923 OF 2015

Kishanlal Udaylal Jain : Petitioner.

Versus

**Municipal Corporation of Greater Bombay
and others : Respondents.**

**Mr. V A Thorat, Senior Advocate a/w Mr. Pradeep J Thorat for the
Petitioner.**

Mrs. Geeta Joglekar for the Respondent No.1.

Mr. R M Vasudeo for the Respondent Nos.2 to 4.

CORAM : R. M. SAVANT, J.

DATE : 20th October 2015

ORAL ORDER :-

1 Rule, with the consent of the learned counsel for the parties made returnable forthwith and heard.

2 The writ jurisdiction of this Court is invoked against the order dated 25/02/2015 passed by the learned Judge of the City Civil Court, Greater Mumbai by which order the application (Exhibit 37) filed by the original Defendant Nos. 2 to 4 for deletion of a portion of the affidavit of evidence of the Plaintiff which was filed to prove the document dated 28/02/2013 came to be allowed and paragraphs 2 to 6 of the said affidavit of evidence dated 05/01/2015 came to be deleted.

3 The matter was argued at some length at which point of time, Shri R M Vasudeo, the learned counsel appearing on behalf of the Respondent Nos. 2 to 4 i.e. the proponents of the application (Exhibit 37) made a statement that the Respondent Nos.2 to 4 have no objection if the said paragraphs 2 to 6 are retained in the said affidavit of evidence. In view of the said statement made by the learned counsel for the Respondent Nos.2 to 4 Shri R M Vasudeo, it is not necessary for this Court to give detailed reasons for setting aside the impugned order. The impugned order dated 25/02/2015 is accordingly quashed and set aside. Resultantly the said paragraphs 2 to 6 would stand retained in the affidavit of examination-in-chief filed to prove the said document dated 28/02/2013. It seems that by the order dated 24/01/2014 a learned Single Judge of this Court has directed the learned Judge of the City Civil Court to endeavour to decide the suit as early as possible. In furtherance thereof and having regard to the fact that the suit is filed for challenging the notice under Section 351 of the Mumbai Municipal Corporation Act, the hearing of the suit is expedited and is directed to be disposed of latest by 31/12/2016. The above Writ Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs of the Petition. All interim orders in the above Petition stand vacated.

[R.M.SAVANT, J]