

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7254 OF 2015

Rashida wife of Mohsin Arif.] ... Petitioner/
(Original Plaintiff)

Versus

Laxmiben Avichal Patel.] ... Respondent/
(Original Defendant)

Mr. D. S. Sabnis i/b Lex Firmus for Petitioner.

Mr. M. M. Vashi, Senior Advocate, a/w Ms. Prachi Khandekar i/b M. P. Vashi Associates for Respondent.

CORAM :- M. S. SONAK, J.

DATE :- AUGUST 26, 2015

P. C. :-

1. After this matter was heard for some time, it transpires that the receipt dated 01/12/1995 and letter dated 05/12/1995, have been exhibited, in the course of evidence.

2. In view of the aforesaid, at this stage, it may not be appropriate to entertain the present petition which challenges the order dated 09/02/2015, by which the Trial Court has granted leave to the Respondent-Defendant to amend the Written Statement at a stage when the evidence of the Petitioner-Plaintiff had already been concluded and the evidence of Respondent-Defendant was on. However, in case, R.A.E. Suit No.260/445 of 2009 is decided against

the Petitioner, and the Petitioner chooses to institute appeal against such decision, the Petitioner, by resort to the provisions in Section 105 of the CPC, as well as other powers which may be vested in the Appeal Court, shall be entitled to question the order dated 09/02/2015 at that stage.

3. It is made clear that this Court has not examined the matter on merits and therefore, all contentions of all parties in this regard are left open.

4. The impugned order itself permits the Petitioner to lead additional evidence if she so desires, as a consequence of leave to amend the Written Statement by the impugned order. In any case, such position is now reiterated. The Petitioner may avail of such opportunity without prejudice to the liberty hereby granted.

5. With the liberty as aforesaid, the present petition is disposed of.

(M. S. SONAK, J.)