

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2313 OF 2015
IN
WRIT PETITION NO. 4084 OF 2015

Hemashree D. Mhatre

.. Applicant

vs.

Raoji H. Boricha

.. Respondent

Mr. Bhushan C. Joshi for the Applicant.

Mr. Mandar Limaye for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 11 AUGUST 2015.

P.C. :-

1] Not on board. Upon production, taken on record.

2] There is no reason to entertain this Civil Application as the main Petition has already been disposed of, by the order dated 23 June 2015.

3] The grievance of the applicant in the Civil Application is that the petitioner in Writ Petition No. 4084 of 2015 has already filed the affidavit alongwith Exhibit-25 and therefore, such petitioner ought not to be permitted to file a fresh affidavit. In a Civil Miscellaneous Application, filed after the Petition is disposed of, such kind of grievances cannot be entertained. However, upon perusal of the

order dated 23 June 2015, it does not appear that any restraint was imposed upon the petitioner for filing any fresh affidavit. However, since the learned counsel for the applicant herein states that there are some contradictions between the two affidavits. It would be only appropriate to direct the Trial Court to consider both sets of affidavits and further, permit the applicant herein to cross-examine the petitioner in main Writ Petition, on the basis of averments in both the affidavits.

5] The learned counsel for the applicant further states that there is no compliance by the petitioner in the matter of filing of affidavit-cum-undertaking as directed in paragraph '13' of the order dated 23 June 2015. This is hardly the occasion for considering such grievance. In any case, the learned Trial Court to look into the grievance and decide whether there is compliance of the direction or not.

6] The time limit for deciding the application for condonation of delay is extended by a period of six months from today.

7] With these observations, Civil Application is disposed of.

(M. S. SONAK, J.)