

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

WRIT PETITION STAMP NO.27687 OF 2015

Virendera Chunnilal Doshi and anr. : Petitioners
versus
Jayesh Chunnilal Doshi and anr. : Respondents.

Mr. N V Butekar for the Petitioners.
Mr. S N Vaishanav a/w Ms. Nupur J Mukherjee i/by N N Vaishanwa & Co.
for the Respondent No.1.

CORAM : R. M. SAVANT, J.
DATE : 29th October 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 08/09/2015 passed by the learned Judge of the City Civil Court, Greater Bombay by which order the application (Exhibit 220) filed by the Defendant No.1 in S C Suit No.4165 of 2009 came to be partly allowed and the following directions came to be issued :-

“Defendant is at liberty to ignore and not be required to
be cross examination the plaintiff as regards averment
in para nos 3 to 8 of affidavit dtd.24.4.2015”

The basis for the said order is the fact that the said evidence is dehors the pleadings. It seems that the Petitioner Plaintiff filed Chamber Summons No.858 of 2015 to back the said evidence by way of pleadings by seeking amendment

to the plaint. The said Chamber Summons No.858 of 2015 came to be rejected by a learned Judge of the City Civil Court. Against the said order a Writ Petition came to be filed in this Court being Writ Petition No.6231 of 2015 which Writ Petition came to be dismissed by this Court .

2 In my view, having regard to the settled position in law that there cannot be evidence without pleadings, the order passed by the Trial Court though at the interlocutory stage cannot be faulted with. No case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]