

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10249 OF 2013

Mrs. Gazala Yusuf Kapadia .. Petitioner
vs.
Zakir Yasin Rathod and ors. .. Respondents

Mr. V.R. Tripathi for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 17 JULY 2015.

P.C. :-

1] Learned counsel for the petitioner states that service has been effected upon the respondents and the affidavit of service is filed.

2] This Court by order dated 23 January 2014 had already indicated that this petition may be disposed of finally at the stage of admission.

3] Having heard the learned counsel for the petitioner, in my judgment, there is no reason to interfere with the impugned order. However, since Mr. Shiv Kumar Tiwari, in pursuance of witness summons applied for by the petitioner, has already filed an affidavit in lieu of examination-in-chief before the Court, the petitioner herein ought to be granted an opportunity to cross

examine the said witness. There is, in fact, nothing on record to indicate such an opportunity has ever been denied to the petitioner. However, in view of apprehension expressed by the learned counsel for the petitioner, it is clarified that upon acceptance of the affidavit in lieu of examination-in-chief by Mr. Shiv Kumar Tiwari, the petitioner has to be offered an opportunity of cross-examine the said witness.

4] With the aforesaid observations, this petition is disposed of. There is, however, no necessity to interfere with the impugned order.

(M. S. SONAK, J.)

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