

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1772 OF 2015

SHRI. ASHOK VINAYAK CHORAGE ...Petitioner
Versus
SAU. SUREKHA RAMESH YADAV AND ORS. ...Respondents

....
Mr. Prabhanjan Gujar, Advocate for the Petitioner.
Mr. Surel S. Shah, Advocate for the respondent No.1.
....

CORAM : R. G. KETKAR, J.

DATE : 29th JANUARY, 2016

P.C.

1. Heard Mr. Prabhanjan Gujar, learned Counsel for the petitioner and Mr. Surel Shah, learned Counsel for respondent No.1, at length. Mr. Gujar seeks oral permission to delete respondent Nos.2 to 8 as they are formal parties and no relief is claimed against them in the present petition. On the motion made by Mr.Gujar respondent Nos. 2 to 8 are deleted from the proceedings.

2. Rule. Mr. Shah waives service. At the request and by consent of the parties, rule is made returnable forthwith and the petition is taken up for final disposal.

3. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as defendant No.1 has challenged the judgment and order dated 5.1.2015 passed by learned 2nd Joint Civil Judge, Junior Division at Wai below Exh.216 in R.C.S. No.26 of 2012. By that order, learned trial Judge rejected the application made by the defendant under Order VI Rule 17 of Code of Civil Procedure, 1908 (for short, 'CPC').

4. Mr. Shah, upon taking instructions, states that the impugned order may be set aside by consent of respondent No.1 – original plaintiff. In view thereof, by consent of the parties the impugned order dated 5.1.2015 is set aside. Application at Exhibit-216 stands allowed. Defendant No.1 shall carry out the amendment in the written statement within four weeks from today.

5. At this stage Mr. Shah submits that learned trial Judge may be directed to dispose of the Suit in a time bound manner. Mr. Shah further submits that the plaintiff has already closed his evidence and he may be permitted to file additional affidavit in the light of amended written statement. He assures that the

plaintiff will file additional affidavit of evidence within two weeks from service of the amended written statement.

6. In view thereof, defendant No.1 will carry out amendment in the written statement within four weeks from today and serve amended written statement on the plaintiff and other defendants. The plaintiff is at liberty to file additional affidavit of evidence within one week from receipt of the amended written statement. The plaintiff is also at liberty to file application for deciding the Suit in a time bound manner. If such an application is made, learned trial Judge will pass appropriate order keeping in mind that the suit is instituted in the year 2003. Rule is made absolute in aforesaid terms. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)