

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2742 OF 2016**

Shri Yashpal Dhawan

Petitioner

Vs

1. Ms. Shekha Bharat Arora, L/R
of Reeta Bharat Arora (since
deceased) and Ors.

.. Respondents

Mr.Nilesh S. Patil, Advocate for Petitioner.

Ms. Firdaus Moosa i/b Prakash Mahadik, Advocate for
Respondents.

CORAM : R.G.KETKAR,J.

DATE : 15/03/2016

PC:

1. Heard Mr. Nilesh Patil, learned counsel for the petitioner and Ms Firdaus Moosa, learned counsel for respondent no.1 at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged order dated 11.1.2016 passed by the learned Judge presiding over Court Room no.14 of the Bombay City Civil Court in Notice of Motion No.724 of 2012 and Notice of Motion No.725 of 2012 in SU No. 6308 of 2005. In that order, the learned trial Judge has recorded submissions advanced on behalf of the petitioner, hereinafter referred to as defendant no.3' that defendant no.3 has not received any amount from the Bank. The learned trial Judge, therefore, directed defendant no. 3 to file affidavit to that effect on the next date. It is against this order, defendant no.3 has instituted the present petition.

3. It appears that on 15.2.2016, the learned trial Judge gave

last chance to defendant no.3 to comply order dated 11.1.2016.

4. After arguing the petition for quite some time, Mr. Patil, upon instructions from defendant no.3 who is present in the Court, states that on or before 30.3.2016, defendant no.3 will file affidavit in compliance of the order dated 11.1.2016 and shall serve copy in advance on the other side. In view thereof, it is unnecessary to consider prayer clause (a).

5. Mr.Patil also challenged amendment dated 8.8.2013 on the ground that no application was made for amending the plaint. On the other hand, Ms Moosa submitted that the amendment was carried out in pursuance of the permission granted by this Court in the order dated 25.6.2012 in Notice of Motion No.724 of 2012 and Notice of Motion No.725 of 2012. She further submitted that aggrieved by order dated 25.6.2012, defendant no.3 preferred Appeal No.630 of 2012. Appeal was disposed of on 28.1.2013 without upsetting leave granted to the plaintiff to amend the plaint. She submits that accordingly the plaintiff has amended the plaint and paid the court fees.

6. In view thereof, I do not find that defendant no.3 has made out any case for granting relief in terms of prayer clause (c).

7. In the light of the above discussion, Petition is disposed of. Order accordingly.

(R.G.KETKAR, J.)