

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10036/2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Kedar P. Lad i/b. P. D. Dalvi for the petitioner

CORAM : K. K. TATED, J.
DATE : JUNE 21, 2016

P.C.:

1. Heard. By this petition under Article 227 of the Constitution of India the Petitioner plaintiff challenges the order dated 27.11.2013 passed by the Jt. Civil Judge, Junior Division Ulhasnagar, Dist. Thane below Exhibit- 71 in Regular Civil Suit No.382/2001 rejecting the application made by the plaintiff for placing on record certain documents at the stage of cross examination of the defendant. The plaintiff also challenges the order dated 18.06.2014 passed by the Trial Court rejecting the application made by the plaintiff below Exhibit- 74 in Regular Civil Suit No.382/2001 for allowing the plaintiff to ask some question on the documents which were not placed on record by the plaintiff.

2. In the present proceedings, the plaintiff made an application below Exhibit- 71 allowing him to place on record certain documents which were neither referred to in the plaint nor in the examination-in-chief of the plaintiff. The application below Exhibit- 71 was made by the plaintiff when the cross-examination of the defendant was in progress. Hence, the Trial Court, considering the provisions of Order VII Rule 14 and Order VIII Rule 1 of the Code of Civil Procedure, 1908 rejected the application made by the plaintiff on the ground that the plaintiff has not given any sufficient reason as to why those documents were not produced at the time of filing plaint and/or list of documents.

3. It is to be noted that unless and until sufficient cause is made out, there is a power under Order VII Rule 14 of the Code of Civil Procedure, 1908 for allowing the parties to place certain new documents which were not referred either in the plaint or in the evidence.

4. Considering these facts, I do not find any irregularity committed by the Trial Court rejecting the application Exhibit- 71 made by the plaintiff.

5. The plaintiff also made an application below Exhibit- 74 for permission to cross-examine the defendant on the basis of the documents which were neither referred to by the plaintiff nor by the defendant. The Trial Court, considering the order below Exhibit- 71 held that the plaintiff cannot be allowed to cross-examine the defendant on those documents. To that effect, the Trial Court has given reasons in paragraph 5 of the impugned order. The Trial Court has noted that unless and until the documents are produced before framing issues, those documents cannot be referred to nor used in recording the evidence in cross-examination. Hence, I do not find any reason to interfere with the well reasoned order dated 18.06.2014 passed by the Trial Court below Exhibit- 74.

6. In view of the above mentioned facts, I do not find any substance in the Writ Petition. Same stands rejected.

JUDGE