

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

WRIT PETITION NO. 13179 OF 2016

Mohammed Arif Shafeeq Ahmed ..Petitioner.
Patel

Vs

The State of Maharashtra and .. Respondents
Ors.

Mr. Mahesh Vishwakarma, Advocate for Petitioner.

Mr. Rohit D. Joshi , Advocate for Respondents no. 2 to 7.

CORAM : R.G.KETKAR,J.
DATE : 07/12/2016

PC:

1. Heard Mr. Mahesh Vishwakarma, learned counsel for the petitioner and Mr. Rohit Joshi, learned counsel for respondents no. 2 to 7 at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as 'plaintiff', has challenged order dated 29.9.2016 passed by the learned trial Judge below Exhibits-161 and 162 in Spl. Civil Suit No.180 of 2008. By that order, the learned trial Judge rejected the applications and closed the evidence of the plaintiff.

3. As respondent no.1 -State of Maharashtra is a formal party, notice to respondent no.1 is dispensed with. Rule. Mr. Joshi waives service on behalf of respondents no. 2 to 7. In view of the narrow controversy and by consent of the learned counsel

appearing for the parties, rule is made returnable forthwith and petition is taken up for final hearing.

4. Plaintiff had instituted Writ Petition No.13178 of 2016 challenging the order dated 8.9.2016 below Exhibit 161 passed by the learned trial Judge in this suit. By that order, the learned trial Judge rejected the application made by the plaintiff for issuing witness summons to Tajammul Hasan Mukri who is a witness to the agreement dated 8.3.2005. By order dated 30.11.2016, the petition was disposed of giving liberty to the plaintiff to examine witness Tajammul Hasan Mukri only for establishing the payment of consideration.

5. In view thereof, the impugned order closing the evidence of the plaintiff stands modified so as to permit the plaintiff to examine witness Tajammul Hasan Mukri.

6. Rule is made absolute in the aforesaid terms with no order as to costs. Parties to act on the authenticated copy of this order.

(R.G.KETKAR, J.)