

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 218 OF 2016**

Central Cottage Industries Corporation India Ltd.

..Petitioner

Vs.

M/s. United Corporation

..Respondent

Mr. G. K. Gole for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 2nd MARCH, 2016

P.C.

1 The Writ Jurisdiction of this court is invoked against the order dated 21-10-2015 passed by the Learned Judge of the Small Causes court, Mubmai by which order, the application exhibit 153 filed by the Petitioner for recall of the P.W.-1 for further cross-examination was rejected.

2 It seems that the cross-examination of P.W.-1 has been completed by the Defendant i.e. the Petitioner herein. The instant application was filed on the ground that the Defendant desires to cross-examine the P.W.-1 on the aspect of the exact area of the suit premises. The Trial Court has rejected the said application on the ground that the cross-examination of the P.W.-1 is already completed. The second ground is that the witness was once recalled pursuant to the order passed on Exhibit 93 and was further cross-examined which cross-examination runs into about 12 pages. The Trial Court has further observed

that though the P.W.-1 has mentioned the area of the suit premises in the affidavit, he is not an architect or an expert witness and in the cross-examination dated 23-8-1010 he has deposed that he did not measure the suit premises that he has no personal knowledge of the area of the suit premise. On the said basis the Trial Court had concluded that no useful purpose would be served by further cross-examining the P.W.-1 on the point of exact area of the suit premises.

3 In so far as the re-examination of the witness is concerned, it is only in exceptional circumstance that the same can be allowed by taking recourse to Section 151 of the Civil Procedure Code. However, it is well settled that the said inherent powers conferred by Section 151, cannot be used in a routine manner and the said power has to be exercised when the situation so warrants.

4 In the facts of the present case, the order passed by the Trial Court rejecting the application on the grounds mentioned hereinabove does not merit any interference in the Writ Jurisdiction of this Court. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]