

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5228 OF 2017
(Mohammad Shafi Abdul Rehaman Pinjari and another Vs. Dilip
Ramanlal Kabra)

Mr.S.B.Yawalkar, learned counsel for the petitioners.

(CORAM : M.S.Sanklecha, J.)

DATE : 24/04/2017

PER COURT :

1. This petition challenges the order dated 15/11/2016 passed by the Joint Civil Judge, S.D. Jalgaon. The impugned order rejects the petitioners' application to take on record the affidavit by way of examination in chief as it did not comply with Order 18 Rule 4 of the Civil Procedure Code. The impugned order records that the only objection taken before him was that instead of using the word "i", the affidavit used the word "plaintiff". This the impugned order correctly holds that the manner of addressing oneself in the affidavit cannot lead to discarding the affidavit. Therefore no interference in the impugned order dated 15/11/2016 is called for.

2. However, Mr.Yawalkar, learned counsel for the petitioners states that he seeks to withdraw this petition with liberty to approach the Trial Court pointing out other deficiencies such as affidavit not being

verified as required under the Code. Liberty as sought for, is granted. However, such an application, if any filed before the Trial Court, would be dealt with by it on its own merits without being influenced by the liberty to approach the Trial Court granted by this Court.

3. Therefore, the petition stands dismissed, as withdrawn with the aforesaid liberty.

(M.S.Sanklecha, J.)