

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3097 OF 2015

Shri. Shridhar Vishnu Nene
(now deceased through L.R.)
Sau. Gauri w/o. Sarvesh Bhide .. Petitioner
vs.
Dr. Nandakishor s/o. Bhalchandra
Deshpande .. Respondent

Mr. N.P. Dalvi i/b Mr. Kalpesh Patil for the Petitioner.
Mr. S.S. Kanetkar for the Respondent.

CORAM : M. S. SONAK, J.
DATE: 03 OCTOBER 2017

P.C :

1] The challenge in this petition is to the order dated 3rd November 2014, by which, respondent (original defendant) was granted liberty to amend his written statement at the appellate stage.

2] Mr. S.S. Kanetkar, learned counsel for the respondent, points out that much water has flown since making of the impugned order. He points out that the respondent (defendant) took out an application under Order 41 Rule 27 of CPC for leading additional evidence at the appellate stage, which came to be allowed. The matter was remanded to the Trial Court for recording evidence. Such evidence has been recorded and the findings returned to the Appeal Court.

3] Considering the aforesaid circumstances, there is no case made out for exercise of extra ordinary jurisdiction under Article 227 of the Constitution of India. If however, the Appeal Court decides the matter against the petitioner and the petitioner choses to take out further proceedings to challenge such decision, the petitioner, will have liberty to challenge not only the final decision, but also the intermediate orders made by the Appeal Court including the order impugned in the present petition.

4] With this liberty, this petition is disposed of. There shall however be no order as to costs.

5] All contentions of all parties are, no doubt, kept open.

(M. S. SONAK, J.)