

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

WRIT PETITION STAMP NO.9119 OF 2017

Smt. Smita Shashikant Padwal : Petitioner.
Versus
Pradeep Bhalchandra Keer and anr. : Respondents.

Mr. A M Khandekar i/by Tamhane & Co. for the Petitioner.
Mr. Manoj Mane i/by Mr. C N Chavan for the Respondent No.1.

CORAM : R. M. SAVANT, J.
DATE : 21st APRIL 2017

P.C.

1 An application filed by the Petitioner for being permitted to ask certain questions in the cross examination was rejected by the learned Judge of the Small Causes Court by the order dated 14/03/2016. It seems that thereafter the Petitioner had filed Writ Petition being No.7867 of 2016 in this Court. In the said Writ petition the learned counsel appearing for the Petitioner sought leave to withdraw the Petition with liberty to file an application before the learned Judge of the Small Causes Court. The said Writ petition was accordingly allowed to be withdrawn with liberty as prayed for. The Petitioner thereafter filed the instant application (Exhibit 41) for the said purpose. The said application has been rejected on the ground that the said application is not maintainable as the order was passed on 14/03/2016 and the application was filed on 06/02/2017. The application was also rejected on the ground that the reason as to why the Petitioner wants to recall the witness is not spelt out. In my view the Trial Court being in seisin of the matter has

rejected the application as it did not probably find the questions to be relevant in the context of the subject matter of the proceedings. No case for interference with such an order passed by the Trial Court is made out. However, it would be open for the Petitioner to urge the said ground in the Appeal, if the decree ultimately goes against the Petitioner. With the liberty as aforesaid the above Writ Petition is disposed of.

[R.M.SAVANT, J]