

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12893 OF 2016**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr.Atul Damle, Senior Advocate i/b. R.R. Lanjekar, Advocate for the Petitioner.

CORAM : R. G. KETKAR, J.

DATE : 11/01/2017

P.C.:

1. Not on board. At the request of Mr.Damle taken up for admission.
2. Heard Mr.Atul Damle, learned Senior Counsel for the petitioner, at length.
3. By this Petition under Article 227 of the Constitution of India, the petitioner who is respondent No.7 in Civil Appeal No.279/2013 has challenged the judgment and order dated 30.8.2016 passed by the learned District Judge-2, Solapur below Exhibit-67 in Civil Appeal No.279/2013. By that order, the learned District Judge dismissed the application filed by the petitioner under Order 41 Rule 23 and 23(A) of C.P.C. for remanding the matter to the trial Court. Respondent No.7 contended that

he was not given an opportunity to cross-examine the witnesses as also advance his submissions. The learned trial Judge considered the arguments of the appellant society who is plaintiff No.1 and defendants No.1 to 4 and passed the judgment on 20.7.2013.

4. For the reasons recorded in paragraph-9 of the impugned order, I do not find that the learned District Judge has committed any error in rejecting the application. It is, however, clarified that respondent No.7 will be entitled to agitate the contention for remanding the matter on the grounds other than the grounds raised in application at Exhibit-67. Subject to this clarification, Writ Petition fails and the same is dismissed.

(R. G. KETKAR, J.)