

JPP

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

WRIT PETITION (St.) NO. 31098 OF 2016

Dilshad S. Bohra.

... Petitioner.

V/s.

Secretary Bene Israel Stree Mandal.

... Respondents.

Mr. Khan Javed Akhtar for the Petitioner.

Mr. Nikhil Jayakar i/b. M/s. Vigil Juris for the Respondent.

CORAM : N.M. Jamdar, J.

16 January, 2017.

P.C. :-

Not on board. Taken on production board by way of praecipe.

2. By this Petition, the Petitioner has challenged the order passed by the learned Small Causes Court Judge dated 4 October 2016 wherein an application filed by the Petitioner for deleting certain statements from the affidavit of evidence of Defendant No.3, was rejected.

3. Heard the learned Counsel for the parties. All that the learned Judge has done is to hold that it is not possible at this stage to say with certainty whether the paragraphs sought to be deleted are irrelevant. The learned Judge has deferred the decision to be taken on merits at the subsequent stage of the suit. While conducting the trial, it is open for a Trial Judge to take such a view and merely because the course of action adopted is not found favourable by the Petitioner is not a ground to interfere under Article 227 of the Constitution of India.

4. As far as the apprehension of the Petitioner expressed by the learned Counsel that more witnesses would be examined and to delay the trial, the learned Counsel for the Respondent states that one more witness would be examined and care would be taken that as far as the possible duplication of averments which will lead to identical cross-examination would be avoided. In case, a request is made by the Respondent for examination of further one more witness, same will be considered by the learned Small Causes Court Judge, if the learned Small Causes Court Judge is satisfied that if the interest of justice would do so and that it is not only to delay the trial.

5. In view of the above observations, no further orders are required to be passed. The Writ Petition is accordingly disposed of. It is open to the Petitioner to make a request to the learned Small Causes Court Judge to take up the suit on priority basis which the learned Small Causes Court Judge will consider keeping in mind the pendency of the earlier suits or the expedited one.

(N.M. Jamdar, J.)