

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

WRIT PETITION NO. 669 OF 2017

Mrs. Bunny Dara Daruwala

...Petitioner

Versus

Dr. Balasaheb Gurunath Halgekar & Anr. ...Respondents

Mr. Dakshesh Vyas, i/b Mr. Yagnesh Vyas and Mr. Nishant Vyas,
for the Petitioner.

Mr. N.P. Wagle, for the Respondents.

CORAM : N.M. JAMDAR, J.

DATE : 8 February 2017

ORAL ORDER :

1. By this Petition, the Petitioner has challenged the order passed by the Appellate Bench of the Small Causes Court, Mumbai dated 17 September 2016 in Revision Application No. 07 of 2016 allowing the Revision and setting aside the order passed by the learned Small Causes Court, Judge below **Exh.40** in R.A.E. Suit No. 724/1078 of 2010 and declaration dated 7 August 2007 be taken on record with liberty to cross-examine.

2. It is in respect of the alleged declaration dated 7 August 2007 to which the learned Counsel for the Petitioner has made a grievance. Perusal of the impugned order shows that the Appellate Bench has permitted the alleged declaration to be brought on record. There is no observation that precludes the contention of the Petitioner in respect of the said document. Even if the documents is allowed to be placed on record, it does *ipso facto* mean that it stands proved. It will be open to the Petitioner to advance such contentions as available in law in respect of the said documents at the time of trial. In view of this clarification, the apprehension expressed by the learned Counsel for the Petitioner that his arguments stand foreclosed by the impugned order, do not survive.

3. All the contentions of parties in respect of the document dated 7 August 2007 including that it was not produced earlier or that it was to fill a lacuna, etc., are kept open to be urged on its own merits. The Writ Petition is accordingly disposed of.

4. Needless to state that the orders impugned being interlocutory, the Suit will be decided on its own merits.

[N.M. JAMDAR, J.]