

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.208 OF 2017

Yashoda Balkrishna Chande ... Petitioner
Vs.
Mohammed Abdulla Ibrahim Merchant and another ... Respondents

Mr. R. S. Datar i/b. Mr. Akshay J. Kandarkar for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 09, 2017

P.C. :

Heard Mr. Datar, learned Counsel for the petitioner.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 05.12.2016, below exhibit-194 as also the judgment and order dated 13.12.2016, below exhibit-199 in Regular Civil Suit No.9 of 2012 passed by the learned Civil Judge Junior Division, Shahapur. By order dated 05.12.2016 below exhibit-194, the learned trial Judge rejected the application made by the petitioner, hereinafter referred to as plaintiff, for exhibiting her PAN card. By order dated 13.12.2016 below exhibit-199, the learned trial Judge rejected the application made by the plaintiff for exhibiting Aadhar card. The learned trial Judge rejected the application principally on the ground that the arguments of the plaintiff were over and the arguments of the defendants are going on. It is at this stage, applications exhibits-194 and 199 are made.

3. Perused the order dated 04.01.2017. Mr. Datar states that petitioner-plaintiff is present in the Court. He has also tendered PAN card of the petitioner.

4. It is not possible to decide this question for the first time in this Court. It will be open to the petitioner to present herself in the trial Court along with the original Aadhar card as also the PAN card. Having regard to the fact that the learned trial Judge has rejected the applications on the ground that evidence of the plaintiff is over, her arguments are also over and that arguments of the defendants are in progress, I do not find that the learned trial Judge has committed any error in rejecting the applications. Plaintiff chose to file applications only when the arguments of defendants are in progress. Hence, Petition fails and the same is dismissed. It is, however, expressly made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105 (1) of C.P.C.

(R. G. KETKAR, J.)

Minal Parab