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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5157 OF 2018

Dr. Shamim Samir alias K.P. Sharma ..Petitioner
Vs.
Kanhaiyaprasad alias Samir Sharma
& ors. ..Respondents

....

Mr. D.R. More for the petitioner.
None for the respondents

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CORAM : M.S.KARNIK, J.

DATE : 13th DECEMBER, 2018.

P.C. :

By this Petition filed under Article 227 of the Constitution of India, the petitioner assails an order passed by the learned District Judge-6, Kolhapur in Misc. Civil Appeal No. 151 of 2016 dated 9th November, 2017.

2. It is basically the contention of the petitioner – wife of the respondent No.1 that disputed premises in question was purchased from the joint funds of the parties to the suit i.e. petitioner and the respondents. The petitioner has every right to

use the suit premises. Both the Courts below have recorded concurrent findings against the petitioner.

3. Learned Counsel for the petitioner, however, invites my attention to the application for amendment filed under Order 6 Rule 17 of Code of Civil Procedure, 1908 where he has set out additional material facts to indicate that the suit premises in fact have been purchased from the joint funds of the petitioner and the respondent No.1.

4. Learned Counsel indicates that there every likelihood of the Kolhapur Municipal Corporation permitting the change of name in respect of the premises. Learned Counsel for the petitioner therefore submits that he would be satisfied if he is permitted to file fresh application before learned Trial Court for appropriate reliefs in view of the amendments carried out and having regard to the subsequent events on record as the petitioner has claimed joint ownership.

5. In view of the concurrent findings recorded by both the Courts below, I am not inclined to interfere with the findings recorded. However, the petitioner is permitted to make a fresh application for appropriate reliefs before the trial Judge based on the amendments carried out in the Plaint and the subsequent events. In the event such an application is filed, the same obviously will be considered by the trial Court on its own merits without being influenced by the observations made by me in this order or by the observations made in the impugned orders.

6. The copy of the amended application and the order thereon is taken on record.

7. Writ Petition is disposed of.

(M.S.KARNIK, J.)