

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3267 OF 2018

Dr. Devyani S. Lathi

.... Petitioner

V/s.

Shrikrishna Prabhakar Chitale & Ors.

.... Respondents

Mr. Vaibhav P. Patankar for the Petitioner.

None for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 26TH MARCH, 2018.

P.C. :

1. Heard Mr. Patankar, learned counsel for the Petitioner.
2. By this Writ Petition, filed under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 30th January 2018 passed by the 16th Joint Civil Judge, Senior Division, Pune, below the application filed at “Exhibit-347”.
3. The said application was filed by the Petitioner seeking permission for re-opening of evidence under Section 151 of the Code of Civil Procedure, 1908.

4. The Petitioner herein is the Original Plaintiff. According to her, she got some true copies of the Commencement Certificate, Completion Certificate and Sanctioned Plan in respect of the suit property, after the entire case was closed and kept for the cross-examination of Respondent No.1 – Defendant No.1. According to her contention, all these documents are the certified copies of the public record and hence, it was necessary for the Trial Court to re-open her evidence to consider these documents.

5. However, the perusal of the impugned order passed by the Trial Court clearly goes to show that, in the present case, the Suit was filed in the year 2000; issues were framed on 19th August 2003 and Petitioner has filed her affidavit in lieu of examination-in-chief on 17th January 2007. Her cross-examination was completed on 9th February 2007. She closed her evidence, after seven years, by filing 'pursis' at "Exhibit-274" on 4th January 2014. Thereafter, Respondent No.1 has filed his affidavit in lieu of examination-in-chief on 20th June 2015. Further examination-in-chief was recorded on 17th February 2017. His cross-examination was started on 27th September 2017. It continued on 7th October 2017. "No Cross-examination" order was also passed thereafter, as the Petitioner failed to conduct cross-examination. That order was passed on 21st November 2017. It came to be set aside on 30th November 2017. Further cross-examination was recorded on 14th December 2017. It was deferred on the Petitioner's application at "Exhibit-342" and at this stage, after a

lapse of about 17 years from the filing of the Suit and 10 years from the commencement of evidence, now the Petitioner wants to re-open the evidence for leading further evidence and that too, by exercising its inherent powers by the Trial Court.

6. It is pertinent to note that, the hearing of the Suit was expedited, in view of the orders passed below “Exhibit-1” on 18th July 2005, 28th June, 2006 and 12th January 2007. If despite that, the Petitioner has not remained diligent and at the fag-end of the trial, after seeking numerous opportunities and adjournments, if she is filing this application and that too, without showing any specific provision of law, but calling upon the Trial Court to re-open her entire evidence by invoking its own inherent powers, then, in my considered opinion, the Trial Court has rightly rejected such application and no interference is warranted therein in the writ jurisdiction of this Court on any count.

7. Writ Petition, therefore, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]