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

WRIT PETITION NO.4630 OF 2018

Leelachand Navamal Shah (Raigandhi)	...	Petitioner
V/s.		
Kasegaon Education Society		
Public Trust and ors	...	Respondents

Mr.Bhushan Walimbe, for the Petitioner.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 18th APRIL, 2018.

P.C. :

- 1] Heard learned counsel for the petitioner.
- 2] It is contended that the trial Court has rejected the petitioner's application filed at Exh.260 only on the count that the petitioner has directly called T.I.L.R. for cross examination. The trial Court has considered the provisions of Section 137 of the Indian Evidence Act and held that there has to be examination-in-chief and then only there will be cross examination. The petitioner cannot call witness directly for the purpose of cross examination.
- 3] The main submission of learned counsel for the petitioner is that merely because it is stated in the application that the witness is required to be called for cross examination, does not mean that he

was not called for examination-in-chief. In my considered opinion, there is no reason to interfere in the impugned order passed by the trial Court. However, liberty can be granted to the petitioner to file fresh application before the trial Court for calling the T.I.L.R. as witness under Order 26 Rule 10 of the Code of Criminal Procedure. It is needless to state that if any such application is filed by the petitioner, it will be decided by the trial Court on its own merits.

4] The Petition is disposed off in above terms.

[DR.SHALINI PHANSALKAR-JOSHI, J.]