

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.9304 OF 2018

Smita Sakharam Aroskar	]	Petitioner
Vs.		
M/s. ISH HOMES PVT. LTD.	]	Respondent

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Mr. Mayur Khandeparkar i/b Tanvir Abdul Hamid Shaikh, for Petitioner.
Mr. Khan Javed Akhtar, for Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 21ST AUGUST, 2018.

P.C.

Not on board. At the request of Mr. Khandeparkar, taken up for admission.

2. Heard Mr. Khandeparkar, learned Counsel for the petitioner and Mr. Khan, learned Counsel for the respondent at length.

3. By this Petition under Article 227 of the Constitution of India, the petitioner hereinafter referred to as “applicant” has challenged the order dated 10th November, 2016 passed by the learned trial Judge, Court Room No.25 of the Court of Small Causes at Mumbai below Exhibit 27 in R.A.E & R Suit No.585/936 of 2007 as also the judgment and order dated 17th July, 2018 passed by the Appellate Bench of the Court of Small Causes at Mumbai in Revision Application No.96 of 2017. By these orders, the Courts below rejected the application Exhibit 27 made by the applicant, inter alia, praying for deletion of defendant Shubhalakshmi Shashikant Shelar and bringing her on record. The applicant claims that defendant Shubhalakshmi Shashikant Shelar

died on 10th July, 2016 in Mumbai without leaving any heirs or legal representatives except the applicant and that at the time of death of the defendant, she was residing with her.

4. After arguing the Petition for quite some time, Mr. Khandeparkar, on instructions states that the applicant withdraws application Exhibit 27 filed by her in the trial Court. He seeks liberty to file fresh application.

5. Mr. Khan objects to grant of liberty. As the application Exhibit 27 is allowed to be withdrawn, all contentions/objections of the respondent including maintainability of such application are expressly kept open. Subject to this Petition is disposed of with liberty as prayed for.

[R.G. KETKAR, J.]