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

WRIT PETITION NO. 13962 OF 2018

Deepak Vishwanath Pradhan	...Petitioner.
vs	
Jayashree Laxman Pawar & Ors.	...Respondents

.....
Ms Gauri Godse for the Appellant.

.....

**CORAM : B.P.COLABAWALLA, J.
DECEMBER 10, 2018.**

P.C. :

By this Writ Petition, the Petitioner challenges the order passed by the Trial Court dated 1st November, 2018 below Exh.144 in Special Civil Suit No. 242 of 2010. Exh.144 was an application filed by Defendant No.1 for permission to adduce the evidence. This application was rejected by the Trial Court *inter alia* on the ground that the earlier Advocate appearing on behalf of Defendant No.1 had filed a purshis stating “**evidence closed**”. Thereafter Written Statement was amended and then Exh.144 was filed. For the reasons stated in the impugned order, application Exh.144 was rejected.

2 I think that in view of Section 105 of the Code of Civil Procedure, 1908, this Writ Petition ought not to be entertained at this

stage. Section 105 of the Code of Civil Procedure, 1908 clearly stipulates that, where a decree is appealed from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the Memorandum of Appeal. In other words, if the Petitioner herein suffers a decree in the Trial Court by virtue of the fact that they were not allowed to lead their evidence, then it would always be open to the Petitioner to challenge the order impugned in this Writ Petition when they challenge the final decree.

3 This being the case I do not think that any interference is called for under Article 227 of the Constitution of India. The Writ Petition is accordingly dismissed. However, there shall be no order as to costs.

(B.P.COLABAWALLA, J.)