

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

953 WRIT PETITION NO.3500 OF 2019

ANWARODDIN AFJLODDIN MALIK AND OTHERS
VERSUS
VAJIYODDIN RAFIYODDIN SAIYYAD AND OTHERS

...
Advocate for Petitioners : Mr. Patil Chandrakant P

...

**CORAM : P.R. BORA, J.
DATED : 29th March, 2019.**

PER COURT:-

. Heard the learned counsel for the petitioners.

2. The order passed by Joint Civil Judge, Junior Division, Yawal below Exhibit-53 in R.C.S No.72 of 2014 dated 12.12.2018 is challenged in the present petition. The application at Exhibit-53 was filed by the plaintiff in the said suit seeking permission to file additional affidavit and the same came to be allowed by the Trial Court. It is the contention of the present petitioners that in the earlier evidence affidavit, it was averred by the plaintiff that his suit may be dismissed. It is the contention of the petitioners that even in the cross-examination, he maintained the said statement twice. In the circumstances, according to the learned counsel, the Trial Court should not have given permission to him to file additional affidavit to cure the

lacuna and wipe out the admission obtained by the petitioners.

3. I have carefully gone through the order passed by the Trial Court. It appears that, that was a inadvertent mistake on part of the plaintiff. However, no plaintiff in his evidence affidavit will make a statement that his suit may be dismissed. The said mistake is permitted to be rectified. It appears that the Trial Court has not committed any error in allowing the said application by permitting the original plaintiff to file additional affidavit. The writ petition being devoid of any substance deserves to be dismissed and is accordingly dismissed.

(P.R. BORA, J.)

Mujaheed//