

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

929 WRIT PETITION NO.4310 OF 2019

BISMILLAH KHAN CHAND KHAN THROUGH GPA JAVED KHAN
YUNUS KHAN
VERSUS
RAJENDRAKUMAR GIRDHARILAL GANGVAL AND OTHERS

...
Advocate for Petitioners : Mr. Shaikh Mujtaba Gulam Mustafa
Advocate for Respondent No.3 : Mr. Prashant K Nikam
...

**CORAM : P.R. BORA, J.
DATED : 04th APRIL, 2019.**

PER COURT:-

. The petitioner has filed the present petition taking exception to the order passed by the Joint Civil Judge, Junior Division, Kannad on 21.02.2019 below application Exhibit-166 in R.C.S. No.118 of 2007. The said application was filed by the petitioner to again adduce his oral evidence and to lead additional evidence. It was his case that defendant in his deposition before the Court for the first time referred to one sale deed. It was therefore his further contention that to rebut the contentions in regard to the said sale deed, the Court shall permit him to adduce further additional evidence. Since, the Court has turned down the said request, the present petition is filed.

2. Heard Shri Mustafa, the learned counsel appearing for the petitioner and Shri Prashant Nikam, the learned counsel appearing for respondent no.3. Perused the impugned order and the other material placed on record by the petitioner.

3. After having considered the aforesaid material, apparently it does not appear to me that any case is made out by the petitioner for accepting his request and consequently to allow his writ petition. The proposition canvassed by Advocate Shri Mustafa that a party cannot be permitted to adduce evidence beyond its pleadings cannot be disputed, however, if this is the case of the petitioner that defendant no.1 in his testimony before the Court has deposed certain facts which were not pleaded by him in his written statement and if he has referred to a sale deed, to which there is no reference in his written statement, all such facts can be argued on behalf of the petitioner in the final arguments and all legal provisions in that regard can be brought to the notice of the Court at that time. However, for the said reason the petitioner was not required to adduce any rebuttal evidence. It does not appear to me that the Trial Court has committed any error in rejecting the application filed by the petitioner.

4. The writ petition being devoid of any substance deserves to be dismissed and is accordingly dismissed.

(P.R. BORA, J.)

Mujaheed//