

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

WRIT PETITION NO.14879 OF 2019

TIRAPUTI BALAJI CO OP HOUSING SOCIETY LTD THROUGH ITS
CHAIRMAN
VERSUS
JIJABAI NANA PAGORE AND OTHERS

...

Advocate for the Petitioner : Shri Gandhi Amol S.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th December, 2019

Per Court:

1 The petitioner, original plaintiff in Regular Civil Suit No.1674/2000, is aggrieved by the order dated 12.06.2019 passed by the Trial Court vide which, the application exhibit 187 seeking calling for the record in another suit viz. Special Civil Suit No.160/2001, has been declined.

2 The learned advocate for the petitioner/ plaintiff submits that defendant no.1 has filed the written say at exhibit 92 in Special Civil Suit No.160/2001, which is still pending. The said defendant has also filed an affidavit in lieu of examination-in-chief at exhibit 111. The petitioner had produced the certified copies of the said documents before the Trial Court in the present proceeding and had filed an application exhibit 186 calling

upon the first defendant to admit or deny the said documents. The said defendant has neither admitted nor denied the said documents on the ground that a notice of nine days will have to be served on the said defendant by the plaintiff for calling her admission or denial as regards the said documents. Unfortunately for the petitioner, the learned Judge lost sight of the say of the said defendant and disposed off the application by recording that as defendant no.1 has neither admitted nor denied the documents, the application is disposed off with liberty to the plaintiff to take appropriate steps. It is in this backdrop that the petitioner preferred exhibit 187 seeking production of the record.

3 Considering the above, this Writ Petition is disposed off since the petitioner, in view of the say of defendant no.1, is at liberty to issue a proper notice for seeking admission or denial of documents as is prescribed under the Code of Civil Procedure with nine days notice period to the other side.

kps

(RAVINDRA V. GHUGE, J.)