

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

WRIT PETITION NO.15000 OF 2019

CHAYA BABASAHEB JARE
VERSUS
BABASAHEB KARBHARI JARE AND OTHERS

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Advocate for the Petitioner : Shri Tabrezuddin h/f.
Shri Shaikh Mujtaba Gulam Mustafa
Advocate for Respondent No. 2 : Shri D. R. Markad
Advocate for Respondent No. 3 : Shri S. S.Thombre

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 12th DECEMBER, 2019

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PER COURT :

1. The Petitioner / original plaintiff in Regular Civil Suit No. 274/2018, is aggrieved by the order dated 20/11/2019, by which, the Trial Court has rejected application Exhibit 110. The plaintiff had moved Exhibit 110 seeking permission to re-open her evidence after the entire recording of oral evidence in the suit was concluded and the matter was at the stage of advancing final arguments. It was contended vide Exhibit 110 that five more persons in support of the case of the plaintiff, have to be examined.

2. The learned Advocate for the Petitioner has strenuously criticized the impugned order. He relies upon the 17 grounds formulated in the memo of the petition. Contention is that important witnesses were inadvertently forgotten and they need to be examined. It is also submitted in Exhibit 110 that as the plaintiff was preparing for advancing oral final submissions, it was noticed that more witnesses are required to be examined. One witness is the Deputy Engineer of the Maharashtra State Electricity Distribution Company. Second witness is the Tahsildar of Nagar. The third witness is one postman. The fourth witness is one Mansur Sham Bage and the fifth witness is one Mr. Shahanawaj Faruq Shah.

3. I find that the suit is filed for specific performance of contract and for a declaration. List of witnesses has not been tendered to the Court so as to indicate the persons, who are to be examined. Even the plaint does not disclose the role of the proposed five witnesses. Exhibit 110 does not indicate as to why these five witnesses are now to be examined.

4. Considering the overall factors in this matter, I find that the possibility of manufacturing witnesses for being examined after the entire evidence is concluded and more so when the defendants have completed their oral evidence, cannot be ruled out.

5. In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-