

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION STAMP NO. 493 OF 2019

Mrs. Latabai Vijaykumar Shewale

Through her C.A. Holder

Mr. Pankaj Vijaykumar Shewale

Petitioner

vs.

Jibhau Narayan Shewale and Ors.

Respondents

Mr. Manoj Harit I/b Manoj Harit & Company for the petitioner.

Mr. Amitkumar D. Sale for respondent No. 1.

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CORAM : M. S. SONAK, J.

DATE : 03 APRIL 2019.

P.C. :-

Heard Mr. Manoj Harit for the petitioner (original defendant No.2) and Mr. Amitkumar Sale for respondent No. 1 (original plaintiff).

2] The challenge in the petition is to the order dated 12/12/2018 by which petitioner's application at Exh.132 seeking for discovery of documents came to be rejected.

3] From the perusal of the petitioner's application at Exh.132, it is apparent that the application itself was quite vague and such application could have been rejected on such ground alone. The purpose of Order 11 Rule 12 of the Code of Civil Procedure, 1908 is not enable to the parties to pose searching questions, which are in the nature of cross-examination.

3] In any case, the learned Trial Judge has observed that the documents which the petitioners seek cannot be said to be in possession of the plaintiff.

4] The learned Trial Judge has appropriately exercised the discretion and there is no case made out for warranting interference under Article 227 of the Constitution of India, particularly as the suit relates to the year 2003.

5] For the aforesaid reasons, this petition is disposed of. There shall be no order as to costs.

6] At the request of Mr. Harit, the learned counsel for the petitioner the time limit for the petitioners to file the affidavit in lieu of examination-in-chief, is extended upto 18th April, 2019. Copy of affidavit in lieu of examination-in-chief to be furnished to the learned counsel appearing for the plaintiff before the Trial Court on or before 18th April, 2019.

7] The learned Trial Judge to fix the date for further evidence/cross examination after the 18th April, 2019.

8] All concerned to act upon an authenticated copy of this order.

(M. S. SONAK, J.)