

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5500/2017

National Seeds Corporation Ltd.

..Vs..

M/s. Mahalaxmi Seeds & Processing Plant, Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. A.M. Nabira, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.

DATED : 6.8.2019.

1] Heard.

2] By the impugned order, application (Exh. No.19) filed by the petitioner seeking permission to adduce secondary evidence as per Section 65 of the Evidence Act is rejected. Learned trial Judge has observed that the plaintiff has failed to substantiate that the ingredients necessary to grant permission as per Section 65 of the Evidence Act exist. I find that the observations made by the learned trial Judge are just and proper. Apart from this, I find that the application (Exh. No.19) was not supported by affidavit of the plaintiff. Hence, I see no reason to interfere with the impugned order as it cannot be said that the learned trial Judge has committed any error of jurisdiction or illegality. The writ petition is **dismissed**. No costs.

3] Learned Advocate for the petitioner, at this stage, submitted that in view of the judgment delivered by this Court at the Principal Seat in Writ Petition No.11151/2017 (Karthik Gangadhar Bhat V/s. Nirmala Namdeo Wagh and another) on 3rd November 2017, party is not required to move the application seeking permission to adduce secondary evidence. This submission cannot be accepted as the petitioner / plaintiff has already moved the application and in this petition, I am only required to examine the legality of the order passed by the learned trial Judge on the application (Exh. No.19).

JUDGE