

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 995 OF 2020

M/s.Vandana Builders	...	Petitioner
V/s.		
Dineshchandra Chhotalal Timbadia & Ors.	...	Respondents

Ms.Nilam Pawar for Petitioner.

CORAM : A.S. GADKARI, J.

DATE : 4th February 2020.

PC. :

1] By the present Petition under Article 227 of the Constitution of India, the petitioner-original plaintiff has impugned Order dated 11th December 2019 passed below Exhibit-55 in R.A.E. Suit No.461 of 2017, rejecting application of the petitioner for summoning a witness from Adani Electricity Mumbai Limited, Central Zone, Dindoshi, Malad (E), Mumbai, to prove the electricity consumption of the suit premises, between January 2017 to September 2017.

2] Heard Ms.Pawar, learned counsel for the petitioner. Perused the record annexed to the Petition.

3] The record reveals that, the petitioner has filed the aforestated RAE Suit No. 461 of 2017 for eviction of the respondents from the suit premises on

the ground of non user so also the additions and alterations effected by the respondents in the suit premises.

4] As noted earlier, the petitioner had filed the said application below Exhibit-55 for calling upon the General Manager and/or any other person lawfully appointed or authorized by the General Manager of Adani Electricity Mumbai Limited, Central Zone, Dindoshi, Malad (E), Mumbai, as a witness to prove the electricity consumption of the suit premises between January 2017 to September 2017.

5] A bare perusal of the plaint would indicate that, no pleadings to the effect that, the tenant is not using electricity provided in the suit premises in the aforesaid period is made. Even there is no reference in the pleadings about electricity connection provided by the said electricity company. For want of basic pleadings in the plaint, the petitioner cannot be permitted to have roving inquiry at the behest of the said witness to establish its case.

6] In view thereof, this Court is of the opinion that, the Trial Court has not committed any error while rejecting the said application.

Petition being *dehors* of merits is accordingly dismissed in *limine*.

[A.S. GADKARI, J.]