

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8740 OF 2021

Bhaichand Amoluk & Co. .. Petitioner
Versus
Municipal Corporation of Gr.Mumbai
& Anr. .. Respondents

...

Mr.Farhan Dubash with Ms.Minal Dedhia i/b Malvi Ranchoddas & Co. for the Petitioner.

Mr.Om Suryawanshi for the Respondent No.1/MCGM.

Mr.Rajmani Varma with Ms.Unnati Bane i/b Navdeep Vora & Associates for the Respondent No.2.

...

CORAM: BHARATI DANGRE, J.
DATED : 09th DECEMBER, 2021

P.C:-

1. The petitioner, who is the original plaintiff, is aggrieved by an order passed by the City Civil Court, Bombay upon a Notice of Motion No.402 of 2021 taken out by defendant No.2 to permit certain documents being placed on record.

2. The Notice of Motion is taken out at a stage when the evidence of the parties is over and it was strongly opposed by the plaintiff by pointing out that the suit had proceeded without written statement of defendant No.2.

3. Perusal of the impugned Notice of Motion would reveal that defendant No.2 invoked the provision of Section 165 of the Evidence Act, and the Court recorded that the prayer is only to bring the documents on record and there is no relief sought to prove the contents of the documents. Considering that the power available under Section 165 of the Evidence Act read with Section 151 of the Code of Civil Procedure, permits the document merely to be exhibited as they were sought for, the Notice of Motion is allowed. I do not see any legal infirmity in the impugned order as learned Judge has exercised power under Section 165 of the Evidence Act and if the contents of the documents are sought to be relied upon, plaintiff is at liberty to raise an objection.

With the aforesaid clarification, nothing survives in the writ petition and it is disposed of.

(SMT. BHARATI DANGRE, J.)