

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INTERIM APPLICATION NO.2113 OF 2020

IN

SUIT NO.1939 OF 2008

Vikram Rasiklal Chinai

.. Applicant-Plaintiff

Vs.

Ram Motiram Mhatre and Anr.

.. Defendants

Mr. Malcolm Siganporia, with Mr. Soura Subha Ghosh and Mr. Jash Shah,
i/by Hariani & Co., for the Applicant-Plaintiff.

Mr. E.A. Sasi for the Defendants.

CORAM : A. K. MENON, J.

DATE : 16TH SEPTEMBER 2021.

P.C. :

1. By this IA, the applicant-original plaintiff seeks deletion of portions of an affidavit-of-evidence dated 3rd January 2020 of defendant no.1-Ram Motiram Mhatre, which, according to the plaintiff, contains several averments that cannot be treated as his deposition since they are in the nature of hear-say. The applicant-plaintiff has listed out all such portions in Exhibit-E to this IA.

2. Mr. Sasi appearing for the defendants fairly states that all portions extracted in Exhibit-E, save and except the portion of paragraph 27, of which deletion is sought may be allowed to be deleted. As far as paragraph 27 is

concerned, the portion sought to be deleted cannot be so deleted since it forms part of the deposition in the first place and to the witness's personal knowledge.

3. Accordingly, I pass the following order :-

- (i) Interim Application is allowed to the extent that the portions extracted in Exhibit-E to the IA, being portions of paragraphs 2 to 9, 20, 21, 24, 25, 30 to 35, and 37 and 38, shall stand deleted from the affidavit-of-evidence, dated 3rd January 2020, of defendant no.1-Ram Motiram Mhatre.
- (ii) Since the affidavit-of-evidence is already forming part of the record of this court, as evident from the order dated 12th February 2020, registry to permit deletion of only those portions contained in paragraphs 2 to 9, 20, 21, 24, 25, 30 to 35, and 37 and 38, except portions in paragraph 27, of the affidavit-of-evidence, dated 3rd January 2020, of defendant no.1-Ram Motiram Mhatre, marked as "Exhibit D-1/8".
- (iii) The order dated 12th February 2020 marking the affidavit-of-evidence of defendant no.1 as "Exhibit D-1/8" shall stand modified to the extent that the deposition marked as Exhibit D-1/8 is restricted to the

portions post deletion of the extracted portions, as
ordered above.

- (iv) IA is disposed in the above terms.

(A.K. MENON, J.)