

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2797 OF 2022

Sonal Sapankumar Rathi
Through GPA Holder
Sapankumar Satyanarayan Rathi .. Petitioner

Versus

B. N. Rathi Securities Pvt.
Ltd. and others .. Respondents

Mrs. Manjushri V. Narwade, Advocate h/f Shri Vinayak P.
Narwade, Advocate for the Petitioner.
Shri R. K. Lakhotiya, Advocate for Respondent Nos. 1 to 4.

**CORAM : SANDEEP V. MARNE, J.
DATE : 19TH DECEMBER, 2022.**

FINAL ORDER :

. It must be observed at the outset that the present petition is wholly misconceived. Petitioner who is plaintiff has closed the evidence and the same is recorded by order dated 19.12.2018. Thereafter the defendants filed affidavit of evidence of one Mr. Gaurav Pandurang Bhansali on 01st April, 2019. It appears that the witness of the defendants is not palatable to the plaintiff, who strenuously attempted to knock off the evidence of Mr. Gaurav P. Bansali. She filed application dated 25.05.2019 with following prayer :

"Without giving any further opportunity close defendants right for evidence and take suitable other for false affidavit and any other suitable relief in favour of plaintiff and oblige."

2. The Trial Court was required to adjudicate that application by hearing arguments and passing order dated 04.02.2021 and rejected the application. Unsatisfied with that order and having already wasted valuable time of Trial Court, plaintiff persisted her efforts for closure of evidence of defendants. On 18.02.2020 plaintiff filed application with following prayer.

"Close defendants evidence without given any opportunity & pass appropriate orders for false affidavit my Mr. Bhansali. Any other suitable relief in favour of plaintiff may pass & oblige."

3. The Trial Court once again adjudicated her application and rejected the same by its order dated 04.02.2021.

4. After having failed in her efforts to discard the evidence of Mr. Gaurav P. Bansali, plaintiff engineered a new method of calling Managing Director of the defendant company as a witness and she filed application dated 08.03.2021 with following averments :

"Plaintiff's evidence yet not closed but on 01.04.2019 Mr. Gaurav Bhansali was suddenly filed affidavit and plaintiff taken objection as Mr. Gaurav Bhansali maliciously filed affidavit without authority from defendant no. 1.

As the matter is related to disputed trade and forged signature, fabricated documents, forged tripartite agreement prepared by defendant to show Mr. Sapankumar Rathi as Sub broker of plaintiff, all counter signature was made by Managing Director of company therefore it is necessary to call Managing Director of company for evidence purpose.

Plaintiff yet not close evidence therefore request to

honourable court to issue summons first to Managing Director of Company before start defendant's evidence.

It is therefore prayed that :

Call Managing Director of Company for plaintiff by issuing summons, before start defendant's evidence."

5. Thus a specific assertion was made in application dated 08.03.2021 that, 'plaintiffs evidence yet not closed'. This assertion was obviously contrary to order dated 19th December, 2018 passed by the Trial Court closing the evidence of the plaintiff. The application has been rejected by order dated 15th November, 2021 by imposing cost of Rs. 500/-.

6. Now the petitioner has filed present petition challenging the order dated 19.12.2018 (closure of the plaintiffs evidence) as well as order dated 15.11.2021. From the above chronology of events, there could be no manner of doubt that the petitioner is wasting valuable time of the Trial Court in pursuit of her wish that only desired witness of defendants should be examined and not the one whose affidavit of evidence is filed. In the process, the Trial Court was required to decide as many as three baseless applications filed by the petitioner. The petition is gross abuse of process of law. It is devoid of any merit and same is dismissed, however, without any orders as to costs.

[SANDEEP V. MARNE, J.]