

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

WRIT PETITION NO.7488 OF 2022

**VINAYAK MALLIKARJUN MUMANE
VERSUS
AZAM NAWAZSAB SHAIKH AND OTHERS**

...
Advocate for Petitioner : Mr. Ajay T. Kanawade

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CORAM : MANGESH S. PATIL, J.

DATED : 19 JULY 2022

PER COURT :

Heard the learned advocate for the petitioner.

2. The petitioner is the original plaintiff who has filed a suit for declaration that the sale deed executed by him in favour of the defendant no.1/respondent no.1, was by way of security for a handloan and for perpetual injunction restraining all the respondents/defendants from obstructing his possession. He further submits that the respondent no.1 has subsequently sold the suit property to the respondent no.2 and the latter, to the respondent no.3.

3. When the suit was closed for hearing arguments, the petitioner submitted an application (Exh.105) with a prayer seeking leave to lead the evidence in rebuttal. By the order under challenge the application has been rejected.

4. At the outset it is necessary to note that the petitioner's

application (Exh.105) is so vague that one cannot gather anything out of it. Merely by reproducing the history leading to the stage at which the suit had reached and pointing out that for few months he was unfit to because of an accidental injury, he sought permission to lead evidence in rebuttal. He has not mentioned as to in what point and for what reason he wanted to lead the evidence in rebuttal. Merely it has been averred that he has to produce 'some very important and direct evidence which would have a direct nexus to the suit' without taking pains to disclose what that material evidence was.

5. It is pertinent to note that while opening his case the petitioner did not seem to have reserved any right as contemplated under Order XVIII Rule 3 of the Code of Civil Procedure. Besides, assuming for the sake of arguments that he intends to reopen the case, there are absolutely no grounds mentioned in the application which would entitle him to reopen the case.

6. The trial court has specifically observed that the suit has been closed for arguments and is pending since long.

7. If such is the state of affairs, I find no illegality in the order passed by the trial court. The impugned order, in my considered view, is neither perverse nor arbitrary.

8. Writ petition is dismissed.

(MANGESH S. PATIL, J.)