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

WRIT PETITION NO. 5251 OF 2021

Aditya Birla Finance Limited

....Petitioner

V/s

Mrs. Sunanda K. Patil and Ors.

.....Respondents

Mr. Hiten Venegaonkar a/w Mr. Vishal Maheshwari and Ms. Kamini
Pansare i/b V.M. Legal for the Petitioner.

Mr. Hitesh Shah for Respondent No.1.

Mr. Satyadev Joshi a/w Mr. Sairaj Dable i/b Mr. Devendra Singh for
Respondent Nos. 2 and 3.

CORAM: NITIN W. SAMBRE, J.

DATE: FEBRUARY 14, 2022

P.C.:-

1] Heard Mr. Venegaonkar, learned Counsel for the Petitioner.

2] The Petitioner who has been issued witness summons in a
pending suit has failed to honour the same and hence bailable warrant
in the sum of Rs 500/- came to be issued. As such, this Petition.

3] Submissions of Mr. Venegaonkar are, Petitioner is neither a party

to the suit nor necessary party to the suit. The witness summons is issued on the ground that the property which is a subject matter of the suit was mortgaged against the loan Account which is already neutralized and relevant document i.e. Power of Attorney is already handed over. That being so, Petitioner is not required to be summoned as a witness.

4] As far as aforesaid contentions are concerned, it is always open for the Petitioner to appear before the same Court and canvass this very grievance. If canvassed, same be considered independent of disposal of this Petition.

5] In the aforesaid background, bailable warrant issued against the Petitioner is ordered to be kept in abeyance, subject to Petitioner appearing before the Court below seeking relief of recalling of witness summons based on the alleged claim that he ought not to have been summoned in the suit proceedings. Counsel for Respondents/Defendants at whose behest such witness summons is issued submits that if such procedure is taken recourse to, Respondents/Defendants have no objection for deciding such application in accordance with law.

6] In view of above, Petition is disposed of.

(NITIN W. SAMBRE, J.)