

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

31 WRIT PETITION NO.13206 OF 2022

**SAJEDA KHAYUM SHAIKH
VERSUS
ISMAIL AHMED SHAIKH**

...
Advocate for Petitioner : Mr. Rahul Rajiv Deshmukh

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CORAM : SHARMILA U. DESHMUKH, J.

DATE : 02-01-2023

PER COURT :

. By this petition, petitioner has challenged the order dated 19.09.2022 passed by the Civil Judge Junior Division, Latur below Exh.34 in R.C.S. No.3 of 2018 whereby the objection of petitioner to filing of two affidavits of evidence by respondent-plaintiff has been rejected by the trial Court. The learned Counsel appearing for petitioner submits that without taking the leave of the Court the second affidavit of evidence has been filed.

2. I have considered the submissions of the learned counsel for petitioner.

3. On 09.12.2018 respondent-plaintiff had filed the

first affidavit of evidence and second affidavit of evidence has been filed on 02.03.2020. It is not disputed that cross-examination of respondent-plaintiff has not yet commenced and petitioner herein would have an opportunity to cross-examine plaintiff on the original affidavit of evidence as well as additional affidavit of evidence. The learned counsel for petitioner has not been able to demonstrate any bar contained in the Code of Civil Procedure prohibiting respondent from filing additional affidavit of evidence.

4. Considering the aforesaid, I do not find that there is any need to interfere with the impugned order passed by the Civil Judge Junior Division, Latur. The Writ petition is accordingly dismissed.

5. Needless to state that petitioner will be at liberty to cross-examine respondent-plaintiff on both the affidavits of evidence filed below Exhs.16 and 23.

(SHARMILA U. DESHMUKH, J.)