

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6784 OF 2023**

Sunil J. Gupta and Anr.

...Petitioners

Versus

Rebecca Nissim Samuel and Anr.

...Respondents

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Adv. Ashok Pandey a/w Shobhit Shukla a/w Ayaz Bilawala a/w Dhanashree Gaikawai i/b Bilawala and Co. for the Petitioners.

Adv. Rahul Narechani, Sr. Advocate a/w Mr. Sidhanth a/w Ms. Soniya Putta and Mr. Karan Mehta i/b M/s Solomon and Co. for the Respondent No. 1.

Adv. Mr. Anupam Surve a/w Adv. Ms. Hilla Boatwalla i/b Nanu Hormasjee and Co. for Respondent No. 2.

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CORAM : N.R. BORKAR, J.

DATED : 14 JUNE 2023

P.C. :-

1. This petition takes exception to the order dated 11 April 2023 passed by the trial Court below Exhibit-2 in Suit No. 277 of 1988.

2. By the order impugned, the trial Court in a Suit for specific performance of the contract, at the final stage of argument has framed the following additional issue:

“Whether the Plaintiffs prove readiness and willingness to perform the contract?”

3. The learned counsel for the petitioners submits that there is

no denial in the written statement filed by the contesting respondents / defendants to the fact pleaded by the petitioners / plaintiffs in their plaint that they were always ready and willing to perform their part of the contract. It is submitted that thus there was no need to frame the issue to that effect.

4. I have perused the impugned order and I do not see any reason to interfere with it.

5. The learned counsel for the petitioners submits that the petitioners do not wish to lead any further evidence as they have already led the evidence in relation to issue in question. The learned senior counsel for the contesting respondents submits that in view of the above statement respondents also do not wish to lead any further evidence. The statements are accepted.

6. The Writ Petition stands disposed of.

7. The trial Court shall decide the suit in accordance with law.

(N.R. BORKAR, J.)