



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 10006 OF 2023**

Virendra C. Doshi.

..Petitioner.

**Versus**

Jayesh Chunilal Doshi and Others.

..Respondents.

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*Mr. Nitesh Bhutekar, Ms. Gargi Warujikar for the petitioner.*

*Mr. Satyavan N. Vaishnav, Ms. Nupur J. Mukherjee i/b M/s. N. N. Vaishnawa & Co., for respondent No.1.*

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**Coram : Sharmila U. Deshmukh, J.**

**Date : August 18, 2023.**

**P. C. :**

1. Writ petition can be disposed of in view of the consensus arrived at between the learned counsel appearing for the respective parties .

2. The objection raised in the petition is to the order of trial Court permitting the additional affidavit of evidence to be brought on record. The contention is that the error which is crept into the affidavit of evidence could have been clarified by way of re-examination of plaintiff and it was not necessary for an additional affidavit to be permitted which is contrary to the provisions of section 138 of the Indian Evidence Act, 1872.

3. Considering that both parties are agreeable that the plaintiff can be permitted to be re-examined for the purpose of clarifying the inadvertent error as regards the shares claimed by the plaintiff inasmuch as there are two suits filed in respect of two different flats and in respect of each of them a different share has been claimed, the impugned order dated 10<sup>th</sup> July 2023 is hereby quashed and set aside and the plaintiff is permitted to be re-examined in order to clarify the inadvertent error which has been crept in the affidavit of evidence filed in SC Suit No. 2871 of 2014.

4. Considering that the connected suit, namely, S.C. Suit No. 2872 of 2014 is expedited by this Court, it would be in the interests of justice that S.C.Suit No.2871 of 2014 is also directed to be decided expeditiously.

5. Writ petition stands disposed of in above terms.

**[Sharmila U. Deshmukh, J.]**