

Nikita

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

WRIT PETITION NO.15378 OF 2023

Laju Ramesh Mansharamani

... Petitioner

V/s.

Pushpa Bhadrakumar Savjani

... Respondent

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Mr. Vineet Naik a/w Mr. Raghav Gupta a/w Mr. Nikhil
Apte a/w Ms. Sanyukta K. i/b Wadia Ghandy and Co.
for the Petitioner.

Mr. Rahul Gaikwad a/w Aman Jhawar i/b Gravitas
Legal for the Respondents.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 7, 2023

PC.:

1. Limited grievance raised in the present petition is that the first Appellate Court has not granted opportunity to make oral submissions to the petitioner (respondent) in an appeal against decree in a suit for specific performance.

2. It is well settled that right to make oral submissions cannot be substituted by written submissions. This position of law is more relevant in relation to first appeal under Section 96 of the Code of Civil Procedure, 1908 which is an appeal both on facts and law. Therefore, it would be in the interest of justice that the Appellate Court shall grant opportunity to make oral submissions to both sides and after giving such opportunity, the Appellate Court shall

decide first appeal on merits.

3. It is made clear that oral submissions include an objection in relation to valuation of the suit and pecuniary jurisdiction of the Appellate Court.

4. The petition stands disposed of. No costs.

5. The Appellate Court shall fix appropriate date for making submissions and parties shall cooperate with the Appellate Court.

6. It is made clear that the Appellate Court shall decide the appeal uninfluenced by the observations made in this order or earlier orders passed by the Appellate Court.

7. It is open for the parties to file written submissions in addition to oral submissions.

(AMIT BORKAR, J.)