

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1800 OF 2024

Sushil Gajanan Somani

.. Petitioner

Versus

The State of Maharashtra and Ors.

.. Respondents

.....

- Mr. Rahul Arora i./by Mr. Shivam R. Dubey, Advocate for Petitioner.
- Ms. V. R. Raje, AGP for Respondent No.1 – State.
- Mr. A. A. Garge a/w. Mr. Jitendra Oak and Ms. Manali Garge, Advocates for Respondent Nos.3 to 8.

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 04, 2024

P.C.:

- 1.** Affidavit-in-Reply on behalf of Respondents is taken on record.
- 2.** I have heard Mr. Arora, learned Advocate for Petitioner, Ms. Raje, learned AGP for Respondent No.1 – State and Mr. Garge, learned Advocate for Respondent Nos.3 to 8 at length.
- 3.** Admittedly, in the present case, the document in question on which the witness was asked a specific question with respect to its execution has already been marked in evidence as exhibit. There is no ambiguity on that count.
- 4.** In so far execution of the said document is concerned, the

said document having been marked as exhibit in evidence, shall speak for itself. It is seen that the witness was confronted with the said document not once but twice and he was also explained the reason for putting the question about execution of the said document to which the witness has answered in cross-examination that he has not executed the said document.

5. This answer of the witness cannot be held against the witness as an admission since the document in question i.e. Agreement between the parties is already exhibited in evidence before the Trial Court as an exhibit. The alleged answer rather so called admission shall be juxtaposed and compared with the document in question which has been exhibited by the learned Trial Court and it shall consider the same strictly in accordance with law while determining its evidentiary value on the basis of pleadings and the admission if it is so argued at the time of final arguments. All contentions of the parties in this regard are expressly kept open.

6. Apart from the above, any other admission that may have been given while answering questions put to the Defendant No.2 during cross-examination will also be determined strictly in accordance with law without this Court delineating anything on merits of the same.

7. In view of the above, re-examination of Defendant No.2 is

therefore not necessary. Impugned order is sustained alongwith the above clarification. Learned Trial Court is directed to complete witness action of the remaining witness in Regular Civil Suit No.16 of 2013 strictly in accordance with law. All contentions of both parties are expressly kept open.

8. The impugned order dated 20.12.2023 is sustained and the Writ Petition is accordingly disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT

Digitally signed
by HARSHADA
HANUMANT
SAWANT
Date: 2024.03.04
18:31:02 +0530