



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

WRIT PETITION NO. 4851 OF 2022

Radhabai Waghu Chavan And Another
VERSUS
Shrawan Gyanba Wakle

Mr. M. N. Navandar, Advocate for Petitioners
Mr. S. S. Kurundkar, Advocate for Respondent

CORAM : R. M. JOSHI, J.

DATE : 18th February, 2025

PER COURT :-

1. This petition takes exception to order passed below Exhibit 69 by Civil Judge Junior Division, Jintur in Regular Civil Suit No. 23/2017.
2. Original defendants filed Application Exhibit 69 pointing out that there is application on record before the Court. In this regard, specific averment is made that the affidavit has been affirmed by Haribhau before the Assistant Superintendent and thereafter, corrections are made in the Name of Shrawan Gyanba Wakle and hence action is sought in the matter.
3. Learned counsel for the petitioners raised objection to the order impugned for the reason that Court did not consider the objection raised with regard to the documents which involves fabrication of the record of the Court. It is his submission that instead of taking action,

direction is issued for filing fresh affidavit of examination in chief and defendants were given liberty to cross-examine plaintiff. It is his submission that the Court could not have avoided to pass order on merit of the application, when serious issue such as tampering with the document/Affidavit is brought to the notice of the Court.

4. Learned counsel for respondent/original plaintiff sought to support the impugned order.

5. Needless to say that, once, party before the Court brings it to the notice of the Court about tampering of the document/affidavit it becomes obligatory for the Court to look into and enquire in the said allegation. Instead of conducting any sort of enquiry, if Trial Court permits party to withdraw the said affidavit and to file fresh affidavit with liberty to defendants to cross-examine, the same is wholly impermissible.

6. Even if the order passed by the Trial Court for fresh affidavit to be filed on record cannot be faulted with. This Court is of view that error is committed by Trial Court to ignore serious allegation made in respect of the document which is part of record before the Court.

7. Having regard to the aforestated position, though the order impugned is maintained partly. Trial Court is directed to conduct an

inquiry into the allegations made in Exhibit 69 and to pass appropriate order thereof. Needless to say that Clause No. 3 of the operative part of the impugned order stands set aside.

8. Petition stands disposed of in above terms.

(R. M. JOSHI, J.)

bsj