



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6208 OF 2024

Housabai Pandurang Folane

VERSUS

Jubedabi Yasin Maniyar And Others

• Mr. U. B. Deshmukh, Advocate for the Petitioner

CORAM : R.M. JOSHI, J

DATE : JANUARY 07, 2025

PER COURT :

1. This Petition takes exception to order dated 02.03.2024 whereby application Exh. 91 filed by the Petitioner/Plaintiff for setting aside order of closing evidence is rejected.

2. Learned Counsel for the Petitioner submits that Plaintiff due to old age was unable to remain present before Trial Court and hence, her evidence was closed. He points out that application Exh. 83 filed by Plaintiff was not opposed by the Defendant No. 5 and in fact it was stated that the same may be allowed by imposing cost of Rs. 5,000/-. It is his submission that prejudice and irreparable loss will cause to the Plaintiff if she is not permitted to lead evidence.

3. In spite of service, none appeared for Respondents. This shows that Respondents are not inclined to oppose the Petition.

4. Having regard to the age of the Petitioner/Plaintiff No. 1, this Court finds it appropriate to grant last opportunity to the Plaintiff to lead evidence. Hence, order dated 02.03.2024 is set aside. Application Exh. 91 stands allowed. Plaintiff is permitted to lead evidence. This order is subject to payment of cost of Rs. 10,000/-. Out of this amount, Rs. 5,000/- be paid to the contesting Respondent and remaining amount of Rs. 5,000/- be paid to the High Court Bar Association, Bench at Aurangabad. Payment of cost is condition precedent for implementation of this order. If cost is not paid within a period of two weeks, this order shall stand vacated automatically. It is clarified that it is open for the Trial Court to pass any order in accordance with law, if it finds that Plaintiff is avoiding to lead evidence.

(R.M. JOSHI, J.)