

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2766 OF 2025

Gautam Limbaji Khurnagale ...Petitioner

Versus

Nandkishor Narayandas Karwa and anr. ...Respondents

Mr. Sujeet Bugade, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED: 3rd MARCH, 2025

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PC:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to the orders dated 4th November, 2023 and 4th November, 2024, passed by the learned District Judge, Barshi.
3. An application (Exhibit-34) was preferred by the petitioner seeking to lead additional evidence in the nature of examination of an Advocate, who had issued public notice in the newspaper "Dainik Sangharsh" on 3rd August, 2002. The said application was rejected as the learned District Judge found that there was no mention of the said notice in the plaint. Moreover, the additional evidence was sought to be adduced under Order XLI Rule 27(aa)(b) of the Code of Civil Procedure, 1908.

4. Thereafter, the petitioner preferred another application (Exhibit-38). The said application was partly allowed as the parties to the appeal submitted that they have no objection to exhibit the said document i.e. public notice.

5. The learned Counsel for the petitioner submitted that the Advocate, who had issued the said public notice on 3rd August, 2002 subsequently became a Judicial Officer and, therefore, he could not be examined during the pendency of the trial.

6. First and foremost, the learned District Judge has categorically recorded that there was no reference to the said notice in the plaint. Secondly, by no stretch of imagination it can be said that the applicant could not have taken steps to examine the said witness till the said document came to be filed in the year 2023. In any event, the said document, for the proof of which the said witness was to be examined, has been admitted and marked in evidence. The application thus stands substantially worked out.

7. The learned District Judge, thus, cannot be said to have committed any error in declining to allow the petitioner to examine the witness at the appellate stage.

8. The petition stands dismissed.

[N. J. JAMADAR, J.]