Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.16381 OF 2025

Madhuri Dilip Raut …Petitioner

Versus

Chandrakala Ramesh Bedre & Ors. …Respondents

ARJUN VITTHAL KUDHEKAR
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Date: 2025.12.13 12:01:13 +0530

Mr. Ratnesh M. Dube, for the Petitioner.

CORAM: MADHAV J. JAMDAR, J.
DATED: 09 DECEMBER 2025

P.C.:

1. Heard Mr. Dube, learned Counsel appearing for the Petitioner.

2. The challenge in this Writ Petition filed under Article 227 of the Constitution of India is to the legality and validity of the Order dated 15th September 2025 passed by the learned Judge, Small Causes Court, Mumbai, below Exhibit-30 in RAE Suit No.240 of 2021.

3. The said Application bearing Exhibit-30 was filed by the Petitioner, who is the Defendant, seeking to discard the affidavit of evidence of Plaintiff No.4 dated 13th December 2024 filed on 25th June 2025 along with the list of documents.

4. Mr. Dube, learned Counsel appearing for the Petitioner-Defendant submitted that if a party wants to be examined as a witness, then the party should step into the witness box before other witnesses. The Plaintiffs did not file a list of the witnesses. The Plaintiff No.4 has also not obtained permission to examine herself at a later stage. Therefore,

Plaintiff No.4 cannot be permitted to examine herself, and her affidavit of evidence dated 13th December 2024 filed on 25th June 2025 along with the list of documents is liable to be discarded from the record.

5. The perusal of the impugned Order dated 15th September 2025 shows that the learned Court has observed that Order XVIII Rule 3A of the *Code of Civil Procedure, 1908* is not mandatory and the same is directory in nature. The learned Judge has further observed that the only stipulation which is appearing in the said provision is in respect of seeking prior permission of the Court. The Court has also observed that Plaintiff No.4 cannot be restrained from adducing her own evidence in support of the pleadings regarding the issue of bonafide need of the suit premises and that the person whose bonafide need is being pleaded is required to adduce evidence on that aspect.

6. The learned Trial Court by giving cogent reasons has rejected the application. A possible view is taken by the learned Trial Court. In any case, no prejudice will be caused to the Petitioner, as Plaintiff No.4 will be cross-examined by the Petitioner. In the facts and circumstances, interference under the jurisdiction of this Court under Article 227 of the Constitution of India is not warranted.

7. Accordingly, the Writ Petition is dismissed, however, with no order as costs.

[MADHAV J. JAMDAR, J.]