

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2326 OF 2025

SANTOSH
SUBHASH
KULKARNI

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Satchi Development and Company Pvt. Ltd. ...Petitioner

Versus

Karishma Mahtani alias Vijayalakshmi
Shyamsunder Advani ...Respondent

Ms. Radhika Kulkarni, i/b Dave and Co., for the Petitioner.

CORAM: N. J. JAMADAR, J.
DATED: 20th FEBRUARY, 2025

ORDER:-

1. Heard the learned Counsel for the petitioner.
2. Summary Suit No.2778 of 2019 was initially filed before this Court. On 13th July, 2015 this Court had settled issues. Thereafter, the parties led evidence. In view of the enhancement in the pecuniary jurisdiction of the City Civil Court, Summary Suit No.217 of 2024 (High Court Commercial Suit No.16 of 2009), came to be transferred to the City Civil Court.
3. Upon transfer, it appears the learned Judge, City Civil Court, has again framed issues by an order dated 1st April, 2024 (page 31).

4. The learned Counsel for the petitioner submits that the parties were not heard at the time of framing of issues afresh and the issues were framed without adverting to the fact that the issues were already settled and evidence was filed before this Court. The learned Judge, City Civil Court, has not acceded to the request to delete the issues.

5. It appears that the learned Judge, City Civil Court, has framed issues though this Court had already settled issues on 13th July, 2015 and the parties led evidence. The petitioner asserts that issues were framed afresh without providing opportunity of hearing to the parties.

6. In that view of the matter, it would be expedient to dispose of the petition with liberty to the petitioner to file an appropriate application for recast of issues.

7. If such an application is filed, within a period of two weeks, the learned Judge, City Civil Court shall decide the same after providing an opportunity of hearing to the parties and considering the issues, which were already settled by this Court, by an order dated 13th July, 2015.

8. Petition disposed.

[N. J. JAMADAR, J.]