

Mr. Bipin Joshi with Ms. Sakshi Agarwal, for Petitioner.
Mr. A.U.Bobade with Mr. Bharat Punekar, for Respondent No.1.
Mr. Ajit S. Hodage, for Respondent No.5, 6b to 6d.
Mr. Dakshesh Vyas i/by Ms. Swati Margi, for Respondent Nos.2 to 4 and 7.

DATE : 8 JANUARY 2025

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 7 October 2023 passed in Notice of Motion No.2539 of 2019 passed by the learned Judge, City Civil Court, whereby the Notice of Motion taken out by the Plaintiff to file additional affidavit in lieu of examination in chief, came to be dismissed.
3. In substance, the Petitioner / Plaintiff intended to place on record the certified copies of the documents which was permitted to be produced by an order dated 13 November 2017. In the said order, the learned Judge had recorded in clear and explicit terms that the documents of which production was sought, were necessary for the determination of real question in controversy and those two documents were at the heart of the controversy.

4. Learned Counsel for Respondent Nos.2 to 4 and 7 submits that the said Respondents/Defendants have admitted the documents, which were produced pursuant to the order passed by the Court on 13 November 2017. The Defendants do not dispute those documents. In fact, those documents are already marked in evidence.

5. In view of the aforesaid submissions and the fact that certified copies of those documents had been permitted to be produced by an order dated 13 November 2017, once those documents are produced and admitted in evidence, there is no propriety in filing additional affidavit in lieu of examination in chief with regard to those documents.

6. In view of the above, the Writ Petition stands disposed with a clarification that the documents produced by the Petitioner/Plaintiff pursuant to the order dated 13 November 2017 are admitted in evidence and those documents be marked in evidence, if not already marked.

7. Learned Counsel for the Petitioner informed the Court that the learned Judge, City Civil Court has now posted the matter for dismissal order on 9 January 2025.

8. In view of this order, the learned Judge, City Civil Court is requested to hear and decide the suit on its own merit.

9. The Writ Petition stands disposed.

(N.J.JAMADAR, J.)