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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13652 OF 2024

Ashok Prabhakar Kamat

.....Petitioner

Vs.

Swami Madhavnath Bodh
Prasarak Mandal and ors

.....Respondents

Mr. S. C. Wakankar a/w Ms. Aishwarya Bapat for the petitioner
Mr. Hrishikesh Pawaskar, Mr. D. S. Mhaispurkar for the
respondents

CORAM : GAURI GODSE, J.

DATE : 13th AUGUST 2025

ORDER:

1. This petition is filed by plaintiff no. 2 to challenge the order rejecting the plaintiffs' application to reopen their evidence for examining the evidence of one witness. Plaintiff nos. 1 and 3 are made formal party respondents as they were not available at the time of filing the petition. Respondent nos. 1 to 3 are original defendants.

2. The plaintiffs' evidence was closed on 17th January 2023 and thereafter, the defendants filed evidence affidavit of DW 1. Thereafter, the trial has remained pending for conducting cross

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examination of DW1. The plaintiffs filed an application alongwith evidence affidavit of the proposed witness on 16th March 2024 for permission to reopen evidence and file evidence affidavit of the witness. This application is rejected by the impugned order.

3. Learned counsel for the defendants on instructions submits that if the plaintiffs are allowed to reopen their evidence for examining the proposed witness, the defendants be permitted to file additional evidence affidavit in response to the evidence of the proposed witness.

4. Learned counsel for the plaintiffs on instructions, submits that the plaintiffs have no objection for such a liberty being granted to the defendants.

5. In view of the aforesaid submissions, no further reasons would be necessary for considering the plaintiffs' prayer for reopening their evidence to lead evidence of the proposed witness as per their application dated 16th March 2024 at Exhibit 189.

6. Hence, the Writ Petition is allowed by passing the following order:

ORDER

- I. The order dated 14th August 2024 passed by 6th Addl. Judge Small Causes Court and Jt. Civil Judge S. D., Pune at Exhibit 189 in Spl. C. S. No. 459 of 2013 is quashed and set aside.
 - II. Application at Exhibit 189 is allowed and the plaintiffs are permitted to lead evidence of the proposed witness.
 - III. The defendants would be at liberty to conduct cross-examination.
 - IV. The defendants are at liberty to file their additional evidence, if necessary, after the evidence of additional witness is complete.
7. Writ Petition is disposed of in the aforesaid terms.

[GAURI GODSE, J.]