

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 16907 OF 2024

Mukesh Satpal Malhotra ...Petitioner

Versus

Puneet Satpal Malhotra and ors. ...Respondents

Mr. Vineet Naik, Senior Advocate, i/b Bachubhai Munim & Co.,
for the Petitioner.

Dr. Virendra Tulzapurkar, Senior Advocate, a/w Shailendra
Kanetkar, for Respondent Nos.1 to 5.

Adv. Shon Gadgil, for Respondent Nos.6 to 18.

CORAM: N. J. JAMADAR, J.

DATED: 27th FEBRUARY, 2025

PC:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 4th October, 2024 passed by the learned Judge, Court of Small Causes at Pune, whereby an application preferred by the petitioner to record the cross-examination of the petitioner in question – answer form came to be rejected.
3. Mr. Naik, the learned Senior Advocate for the petitioner, invited the attention of the Court to the cross-examination recorded till date and the application filed by the plaintiff seeking certain corrections in the evidence, which has been recorded.

4. Having perused the record, this Court does not find any propriety in interfering with the impugned order in exercise of the supervisory jurisdiction. Under Rule 10 of Order XVIII, the Court may record a particular question and answer, if there appears a special reason for doing so. However, there is no warrant to record the entire evidence in question and answer form, when it is recorded before the Court. In exercise of supervisory jurisdiction this Court cannot direct the manner in which the evidence is to be recorded by the Trial Court.

5. In the impugned order, the learned Judge has ascribed certain reasons, which according to Mr. Naik, reflect upon the demeanour of the witness, and could not have been done after the evidence of the witness was recorded.

6. The submission of Mr. Naik carries substance. Under Order XVIII Rule 12 remarks regarding demeanour of a witness may be recorded while the witness is under examination. Thus, it would suffice to clarify that the observations in the impugned order regarding the demeanour made by the learned Judge, Court of Small Causes, shall not be taken into account while appreciating the evidence of the said witness.

7. Petition dismissed.

[N. J. JAMADAR, J.]