

Jvs.

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

WRIT PETITION NO. 17546 OF 2024

JAYANT
VISHWANATH
SALUNKE

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JAYANT VISHWANATH
SALUNKE
Date: 2025.07.09
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Geetika Daruwalla

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Petitioner**versus****Tushar Seth**

}

Respondent

Mr. Girish R. Agrawal with Mr. Shubham
Jangam for petitioner.

CORAM: ALOK ARADHE, C. J.

DATE: JULY 8, 2025

ORAL ORDER:

1. In this petition filed under Article 227 of the Constitution of India, the petitioner has assailed the validity of the order dated 25th July 2024, by which the Trial Court has rejected the application preferred by the petitioner seeking an opportunity to lead evidence.

2. Facts giving rise to filing of the writ petition, briefly stated, are that the respondent had filed a summary suit, namely, Summary Suit No. 84, 85 and 86 of 2009. The aforesaid summary suit was decreed on 18th April 2012. In the execution proceedings, the petitioner filed an application seeking an opportunity to lead evidence. The aforesaid application has been rejected by the impugned order.

3. Learned counsel for the petitioner submits that if the petitioner is granted an opportunity to adduce evidence, on that

day itself he shall adduce all evidence and shall not seek any further adjournment.

4. I have considered the submission of learned counsel for the petitioner. None has appeared on behalf of the respondent even though served.

5. A party should get an fair opportunity to defend itself. In the facts and circumstances of the case, the impugned order dated 25th July 2024 is set aside and it is directed that the petitioner shall be given an opportunity to adduce his evidence on the date which may be fixed by the Executing Court in this behalf.

6. With the aforesaid direction, the writ petition is disposed of.

7. It is made clear that in case the petitioner fails to adduce evidence on the date fixed by the Executing Court, no further opportunity shall be granted and his right to adduce evidence shall stand closed.

(CHIEF JUSTICE)