

Arun Sankpal

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5893 OF 2025**

Inquilab Gulamali Shaikh

..Petitioner

Versus

Kishor Namdev Sonawane

...Respondent

Mr. Rahul S. Kate, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 7th MAY 2025

P.C.:

- 1.** Heard the learned Counsel for the Petitioner.
- 2.** The challenge in this Petition is to an order dated 3rd December 2024 passed by the learned Civil Judge, Junior Division, Baramati, whereby an Application preferred by the Petitioner for decree on admission under the provisions of Order XII Rule 6 of the Code of Civil Procedure 1908, came to be rejected.
- 3.** The Petitioner has instituted a Suit for removal of encroachment and delivery of possession of the encroached portion of the suit property. In the said Suit, Defendant No.3 appeared and on 17th October 2014 filed an Application for adjournment to cross-examine the Plaintiff.

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4. In the said Suit, the Defendant No. 3 purportedly made a statement that he was willing to remove the drainage pipeline and safety tank, and a reasonable time be provided for the same.

5. It appears that the parties thereafter went for trial. The Cadastral Surveyor who has measured the suit property and prepared the map was examined. Defendant No. 3 cross-examined the said witness and has also filed an Affidavit in lieu of examination-in-chief contesting the claim of the Plaintiff. Thereafter, the Plaintiff filed an Application for a decree on admission, on 11th July 2023, which refers to the said Application dated 17th October 2014.

6. By the impugned order, the learned Civil Judge was persuaded to reject the Application observing, *inter alia*, that there was no clear and unequivocal admission.

7. Evidently, the Application for adjournment which contained the alleged admission was filed on 17th October 2014. Thereafter, the trial proceeded and evidence has been recorded including that of the cadastral surveyor. Subsequently, the Defendant No.3 seems to have contested the claim of the Plaintiff.

8. It is trite that decree on admission is in the discretion of the Court. It is trite that admissions are not conclusive. They can be shown to be incorrect or explained. At best, admissions operate as estoppel. As a substantial time has elapsed and the parties proceeded for trial, the

learned Civil Judge has committed no error in declining to pass a decree on admission.

9. Thus, no interference is warranted in exercise of supervisory jurisdiction.

10. Petition stands dismissed.

[N. J. JAMADAR, J.]