



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 WRIT PETITION NO. 6150 OF 2025

Ms M.R. Group Through Its Proprietor Junaid Khan Javeed
Khan

VERSUS

Mohammed Abdul Haq

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Advocate for Petitioner : Mr. A.S. Kulkarni

Advocate for Respondent: Mr. Sanket S. Kulkarni

CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 08, 2026

PER COURT :-

1. Present writ petition takes exception to the order dated 28.3.2025 passed by the Joint Civil Judge J.D. Aurangabad below Exhibit-69 in R.C.S. No.212 of 2022, whereby the application filed by the respondent/plaintiff seeking correction in the evidence affidavit has been allowed at the fag end.

2. Mr. Ashutosh Kulkarni, learned counsel appearing for the petitioner/original defendant submits that amendment in the affidavit of evidence could not be allowed once cross examination is completed and matter was put at the stage of arguments.

3. Per contra, Mr.Sanket Kulkarni, learned counsel appearing for the respondent supports the impugned order.

4. Perusal of the impugned order would suggests that evidence affidavit was filed by the plaintiff on 5.5.2024 below Exhibit 24. There was a clerical error in the date regarding cause of action. The date was mentioned as '27.11.2020' instead of actual date of cause of action as 1.1.2021. It was contention of the respondent that mistake occurred inadvertently and it was unintentional. Application was opposed by the petitioner contending that evidence affidavit itself was filed belatedly and there is no provision under Order VI Rule 17 of the Civil Procedure Code to amend the evidence affidavit. Trial Court relying upon the law laid down by this Court in case of **Bharat Petroleum Corporation Vs. Precious Finance Investments reported in 2006 (6) BomCR** as well as **Smt. Madhavi Kaushik Smt. Orabha Devi and others CW 9398/2018** (Rajasthan High Court) and **Sairabano w/o Maheboob Sahab Walikar at Nadaf and others Vs. CK Doriswami and another WP 20031 of 2021** (Karnataka High Court) observed that powers under section 151 of the Civil Procedure Code are available for grant of permission to correct

the inadvertent errors occurred in the affidavit of examination-in-chief. Apparently, the mistake is only as regards to the date of cause of action, which can be a clerical or typing error. No prejudice is caused to the petitioner by permitting the amendment. The respondent/plaintiff was permitted to amend the evidence affidavit. In that view of the matter no jurisdictional error is appearing in the order impugned so as to cause interference under Article 227 of the Constitution of India. In the result, writ petition stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

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