IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5726 OF 2026

Archana Prashant Shiroor ... Petitioner
versus
Sagri Radhakrishna Nayak and Ors. … Respondents

Mr. Tejas Vora with Mr. Dilip Rai, Mr. D.R.Mishra i/by Ms. Bina Shivhare, for Petitioner.
Mr. Chandrakant Chavan, for Respondents.

CORAM: N.J.JAMADAR, J.

DATE : 13 OCTOBER 2026

P.C.

1. Heard the learned Counsel for the parties.

2. The challenge in this Petition is to an order dated 16 April 2025, whereby while allowing the Notice of Motion to set aside the orders dated 4 April 2024 and 24 April 2024 filed by the Plaintiffs, thereby forfeiting the Plaintiffs right to cross-examine DW1 and DW2, the learned Judge, City Civil Court has directed the Plaintiffs to make appropriate application to amend the plaint seeking appropriate reliefs in their favour and to produce the documents showing the existence of the suit property in case they amend the plaint.

3. The grievance of the Petitioner is that, in the Notice of Motion No.3608 of 2024 while determining the question whether the orders forfeiting the right of the Plaintiff to cross-examine DW1 and DW2 are required to be set aside, there was no occasion for the trial Court to direct the Plaintiffs to make an

application to amend the plaint.

4. It appears that, during the course of the submissions, the aspect of the tenability of the suit seeking negative declaration was urged. Certain judgments were cited for and against the said proposition. It seems, the trial Court has made a gratuitous suggestion to the Plaintiffs to amend the plaint to seek affirmative reliefs in their favour. Pursuant to the aforesaid impugned order 16 April 2025, the Plaintiffs have taken out the Chamber Summons seeking amendment in the plaint. The said Chamber Summons awaits adjudication.

5. In these circumstances, this Court considers it appropriate to direct that the Chamber Summons taken out by the Plaintiffs seeking amendment in the plaint be decided by the learned Judge, City Civil Court on its own merits and in accordance with law, without being influenced by any of the observations made in the impugned order, particularly the fact that the learned Judge, City Civil Court, had directed the Plaintiff to make such an application for amendment, and the learned Judge, City Civil Court shall decide the Chamber Summons as if the Court had not made such order.

6. With the aforesaid clarification, the Writ Petition stands disposed.

(N.J.JAMADAR, J.)

Signed by: S.S.Phadke
Designation: PS To Honourable Judge
Date: 15/10/2026 15:08:22