IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3722 OF 2025

Ms. Kavita D/o. Narayan Solunke
Age-46, Occu-Advocate
R/o. H. no. 4-40-101, E-ward,
Near Chh. Shivaji Maharaj Chowk,
Mukundwadi, Aurangabad
(through)
General Power of Attorney Holder
Narayan Rangnath Solunke
Age-86, Occu - Advocate
R/o. same as above. ..Petitioner

Versus

1. The Commissioner,
Aurangabad Municipal Corporation,
Aurangabad.

2. The Assistant Director of Town Planning,
Aurangabad Municipal Corporation,
Aurangabad.

3. The Administrator,
CIDCO, Aurangabad

4. Shri. Punjabrao Shrihari Wadje,
Age: 55 years, Occu: Business,
Propreitor, Chetan Mangal Karyalaya,
Chhatrapati Shivaji Maharaj Chowk,
N4-B, CIDCO, Main Road, Aurangabad.

5. Shri. Omprakash Motilal Varma (Deleted)

6. Mr. D.P. Kulkarni,
Age: 60 years, Occu: Service as
Assistant Director of Town Planning,
Municipal Corporation, Aurangabad.

7. Mr. Ravindra Nikam,
Age: 55 years, Occu: Service as
Deputy Commissioner,
Municipal Corporation,
Aurangabad.

8. Mr. Bhagwat Dinkar Phad,
Age: 45 years, Occu: Service,
as Gunthewari Head,
Municipal Corporation, Aurangabad.

9. Mr. Ayyub Khan,
Age: 60 years, Occu: Service, the then
Dy. Commissioner Encroachment Municipal
Corporation, Aurangabad

10. Mr. Vinod Ganeshrao Pawar,
Age: 50 years, Occu: Service the then
Building Inspector,
Municipal Corporation, "E" Ward,
CIDCO, Aurangabad,
now transferred to "A" Ward. ..Respondents

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Advocate for the Petitioner : Mr. P.R. Katneshwarkar, Senior Counsel
i/b Ms. Khushi K. Varma
Advocate for Respondent Nos.1, 2, 7, 9 & 10 : Mr. Aditya Lokhande
h/f Mr. S.S. Tope
Advocate for Respondent No.3 : Mr. A.S. Bayas
Advocate for Respondent No.4 : Mr. V.V. Bhavthankar

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : JULY 01, 2026

PRONOUNCED ON : JULY 06, 2026

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of parties.

2. Present petition takes exception to order dated 13.02..2025 passed by Civil Judge Senior Division (Corporation Court), whereby petitioner's application filed below Exhibit 187, 188, 189 in R.C.S. No. 108 of 2015 came to be rejected.

3. The petitioner is plaintiff in R.C.S. No. 108 of 2015. The suit is instituted seeking relief of declaration, perpetual injunction and

recovery of damages. It is contention of petitioner that she owns three-storey building at Plot No.55A, N-4, CIDCO, Aurangabad, which came to be illegally demolished by respondent authorities. During course of evidence of PW-2, petitioner filed on record Photographs, CD's, Pen-drive to demonstrate construction before and after its demolition. PW-2 has been examined to prove aforesaid documents. However, citing non-observance of certain technicalities during recording of evidence of PW-2, documents were not exhibited. In this backdrop, petitioner had filed three applications. The application Exhibit-187 was filed to exhibit 23 photographs referred in evidence of PW-2. Application Exhibit-188 was filed to read CD and Pen-drive referred in evidence of PW-2. Application Exhibit-189 was filed for recalling of PW-2 by setting aside order dated 08.01.2025 and permit his re-examination in interest of justice.

4. Heard Mr. Katneshwarkar, learned senior counsel appearing for petitioner, Mr. Tope, learned advocate appearing for respondent nos. 1, 2, 7, 9, and 10, Mr. Bayas, learned advocate appearing for respondent no.3, and Mr. Bhavthankar, learned advocate appearing for respondent no.4. Although respondent nos. 6 and 8 are served, they failed to cause their appearance. The writ petition is taken up for final disposal by consent of parties.

5. The petitioner is litigating against alleged illegal action of Respondent/Corporation whereby three-storey building of petitioner

has been demolished by its officers. She has also claimed damages towards loss suffered by her on account of alleged illegal demolition. In her endeavor to bring on record position of construction before and after demolition, she has tendered documents in form of Photographs, CD's, and Pen-drive. PW-2 has been examined before Court, who deposed in his affidavit that along with list of documents Exhibit-123, he has produced photographs snapped by his mobile phone, so also filed certificate under Section 65-B. Apart from this, he has filed on record soft copy of CD and Pen-drive and urged for giving exhibit number. Apparently, aforesaid statements in affidavit was found insufficient to admit aforesaid documents/photographs in evidence. PW-2 was cross-examined in detail but documents are not exhibited. In this backdrop, petitioner filed aforesaid three applications.

6. This Court finds that application Exhibit-189 which was filed for recalling of order dated 08.01.2025 and seeking to re-examine PW-2 has been declined on the ground that re-examination cannot be directed to admit in evidence documents produced by plaintiff after conclusion of examination-in-chief. This Court finds that Trial Court adopted a hyper-technical approach. It is not a case where petitioner wanted to bring new evidence on record of Court, but re-examination was sought in furtherance of reviving technical defects due to which documents which were produced on record and referred in evidence were not admitted in evidence. The Civil Court had ample

power to permit re-examination of witnesses in case there is accidental slip or omission while recording evidence, such technical defects may be rectified by recording clarification from witness.

7. The Civil Court is expected to endeavor to find truth while deciding *lis* between parties and grant fair opportunity to parties to lead evidence without impeded by technicalities. This Court finds that in aforesaid factual backdrop, there was no impediment to permit recalling of PW-2 for re-examination to remove technical defects/inadequacies by which documentary evidence tendered into service could not be exhibited.

8. In that view of matter, writ petition is partly allowed. The order passed below Exhibit-189 is quashed and set aside. The application below Exhibit-189 is allowed.

9. In light of aforesaid order, order passed below Exhibit 187 and 188 need not be disturbed.

10. Rule is made partly absolute in above terms.

(S.G. CHAPALGAONKAR, J.)

Mujaheed//