

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1611 OF 2026**

Surendra Jayantibhai Tanna

.....PETITIONER

: VERSUS :

Arun Keswaram Engineer

....RESPONDENT

Mr. Aman Kacheria with Mr. Neel Kothari, for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

DATED : 9 MARCH 2026.

P.C. :

- 1) Heard Mr. Kacheria, learned counsel appearing for the Petitioner.
 - 2) The petition challenges order dated 25 September 2024 by which the application preferred by the Petitioner/Defendant seeking recall of evidence closure orders dated 6 August 2019 and 21 August 2023 is rejected.
 - 3) No doubt the evidence closure order was first passed on 6 August 2019. However, subsequently the Defendant was permitted to amend the Written Statement and to bring on record copy of the
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judgment and decree passed in L.C. Suit No. 500 of 2008 by which the Suit preferred by the Petitioner challenging notice issued by the Municipal Corporation under Section 351 of the Mumbai Municipal Corporation Act, 1888 has been decreed. According to the Petitioner, the decree dated 4 May 2018 has a direct bearing on outcome of the eviction suit since the solitary ground for eviction raised in the Suit is unauthorised additions and alterations.

4) Since the Written Statement was permitted to be amended, Petitioner secured one more opportunity of leading evidence. No doubt, the Petitioner/Defendant were negligent in not applying for recall of evidence closure order after he was permitted to amend the Written Statement on 18 March 2023. For such negligence, costs are required to be imposed on the Petitioner/Defendant. However, evidence closure orders would have drastic impact on the interest of the Defendants in the Suit. It also appears that Plaintiff is also prevented from presenting oral arguments.

5) The Petitioner/Defendant to deposit in this Court an amount of Rs.25,000/- towards possible costs within a period of 2 weeks. Issue notice to the Respondents returnable on 20 April 2026. Hamdust granted.

6) Subject to deposit of the amount within the stipulated time, the Trial Court is requested to defer the proceedings of the Suit till the next date of hearing.

[SANDEEP V. MARNE, J.]