

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2946 OF 2015

Bhimrao Pandurang Shinde

PETITIONER

VERSUS

Vishnu Bhagwan Ubale & others

RESPONDENTS

.....

Mr. Mukul S. Kulkarni, Advocate for the petitioner

Mr. A. R. Deokate, Advocate for respondents No.1 and 2

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 27th AUGUST, 2015

ORDER :

1. The petition has been moved against orders on Exhibit-136 and Exhibit-137. Exhibit-136 had been moved by present petitioner, who is original respondent No.1 in Workmen's Compensation Application No. 10 of 2008, seeking adjournment for examination of witness who was away and could not remain present before the court on 5th January, 2015. Upon said application, the learned judge has passed an order that repeated evidence cannot be allowed, since witness is in respect of one and the same point in respect of payment of Rs.2 lacs by Rajasaheb Thorbole to the party and that petitioner / respondent No.1 and his witnesses have disclosed this point in evidence.

2. Thereafter, application Exhibit-137 had been moved pointing out that the petitioner intends to examine witnesses, since agreement between Thorbole and the parties being oral one and these witnesses were present while the agreement had taken place. For said purpose, he wants to examine them. Learned judge once again has rejected the request for the reason that quantity of evidence is of no use.

3. Learned advocate for the petitioner submits that if that consideration is weighed with the court and if the court considers that this point of payment by Thorbole is proved, he may not examine the witnesses.

4. Learned advocate for the respondents No.1 and 2, however, submits that, the same would be depending on the evidence adduced and its appreciation by the court. The order had been passed way back on 9th January, 2015 and the Workmen's Compensation Application is pending since 2008 for compliance of procedural aspects.

5. It appears that the matter has been pending for over seven years. Learned advocate for the petitioner cites various reasons as to why the proceedings have lengthened.

6. However, I deem it appropriate that since an assurance has been given that these are the only three witnesses, which are to be examined from the petitioner's side in the matter and that the petitioner undertakes to examine them within a short span of time, thus indulgence is shown and is given to the petitioner.

7. Under the circumstances, the writ petition is allowed in terms of prayer clause "A". The petitioner shall examine the witnesses referred to under application Exhibit-137 within a period of three weeks from the date of receipt of writ of this order. Thereafter the matter to proceed with and should be decided expeditiously, preferably within a period of three months from the date of receipt of writ of this order.

[SUNIL P. DESHMUKH, J.]