

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9062 OF 2013

MOHANLAL RAMKISHAN AGRAWAL AND OTHERS
VERSUS
VISHNUDAS RAMKISHAN AGRAWAL AND OTHERS

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Advocate for Petitioners : Bora Satyajit S.
Advocate for Respondents : Mr.A S Bajaj For R/1
Adv.Mr.Amol Gandhi Adv. For R/2d1 To 2d4

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CORAM : N.W.SAMBRE,J.
DATED : 19TH NOVEMBER,2015

ORDER :-

A Suit for dissolution and rendition of accounts filed by respondent came to be dismissed resulting into filing of Regular Civil Appeal No.111/2007. In the said Appeal, the present petitioner moved application Exh.47 stating therein that the original income tax returns which were summoned for the year 1970-71 to 1978-79 were missing from the record and as such direction was sought to be issued to search out the documents which were produced by income tax authorities on 12/6/1981 during the pendency of the Suit which was in relation to the income tax returns and assessment orders of the respondent no.1 to the appeal.

2] The said application came to be rejected by learned Ad-hoc District Judge-II Latur by an order dated 13/2/2013 as such present petition.

3] The learned counsel for the petitioner would urge that by Exh.47 what was submitted was to search the income tax returns and assessment orders which were produced by the income tax department. According to him, even if these documents which were produced during the pendency of the Suit were not referred to in the evidence or during final hearing still at the time of hearing of the appeal, the documents might be necessary for the purpose of reference. According to him, appropriate order needs to be passed by directing the learned Court below to search those documents.

4] Shri Bajaj, learned counsel for the respondent plaintiff would urge that the application preferred by present petitioner Exh.47 is moved with an intention to drag the litigation further, as according to him, the documents from the income tax department viz. the income tax returns and the assessment orders, though were produced during the trial, were not at all relied upon or referred to during the hearing. According to him, even at this stage no specific cause is brought to the notice of the Court for the purpose of production of these documents. According to him, the petition is misconceived and is liable to be rejected.

5] Upon perusal of the impugned order, it is required to be noted that the Superintendent of the Civil Court has already searched the documents and according to him, the documents were not traced. He has submitted report to that effect to the Court of Civil Judge, Senior Division, Latur which is at Exh.55. Once the documents were searched and could not be located that should have been end of the matter for the purpose of prayer for production and search of papers in the application Exh.47. The petitioner instead of seeking reconstruction of said record, is trying to pursue the matter for empty reasons.

6] In my opinion, it is not fit case wherein this Court should show indulgence in its extra ordinary writ jurisdiction. Petition is devoid of merits and is dismissed.

(N.W.SAMBRE,J.)

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