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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6475 OF 2015

Shyamkant Panditrao Deshmukh

PETITIONER

VERSUS

Dnyanba Rayaji Shinde & Another

RESPONDENTS

.....

Mr. Sachin S. Deshmukh, Advocate for the petitioner

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 6th JULY, 2015

ORDER :

1. Heard learned advocate for the petitioner. He vehemently submits that the whole scenario, under which application Exhibit-242 seeking permission to lead secondary evidence in Regular Civil Suit No. 208 of 2004 was moved by the plaintiff - respondent, is suspicious and there is no convincing reason given as to why it should be considered that the sale deed is not being traced out. He further refers to that despite the petitioner having cited quite a few authorities, learned third Joint Civil Judge, Junior Division, Hingoli has committed an error in allowing application Exhibit-242.

2. Perusal of the impugned order shows that permission to produce secondary evidence with regard to sale deed bearing

No. 2811 of 1991 dated 3rd August, 1991 was sought under application Exhibit-242. It shows that the plaintiff, despite search, could not trace the sale deed and as such, had filed application Exhibit-242. The defendant - petitioner opposed the application referring to that it is at belated stage and the reason mentioned in the application is not satisfactory and convincing. The judgments relied on by the defendant, which have been referred to in the impugned order, show that on facts those would hardly hold the present case. Learned judge has further considered that having regard to the facts and circumstances of the case, it would be appropriate to grant the application.

3. It cannot be said that the court did not have regard to the relevant provisions of law, as is sought to be argued before this court by learned advocate for the petitioner. It is not the case that reasons under Exhibit-242 are not proper and veracity of the same is not seriously disputed. I think that the learned judge has exercised the discretion judiciously and hence the same is not amenable to interference in extra ordinary writ jurisdiction of this court.

4. Writ petition, as such, stands rejected.

[SUNIL P. DESHMUKH, J.]