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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6486 OF 2015

Shramsafala Education Society & Others

PETITIONERS

VERSUS

Chandrakant Bhanudas Bhadane & others

RESPONDENTS

.....
Mr. Ajay G. Talhar, Advocate for the petitioners
Mr. Girish S. Rane, Advocate for respondent No.1
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 9th SEPTEMBER, 2015

ORDER :

1. The petitioners are before this court under this writ petition, purporting to raise challenge to an order dated 25th March, 2015, upon an application Exhibit-57 in Special Civil Suit No.72 of 2011 of Civil Judge, Senior Division, Amalner, for issuance of summons to witnesses and for production of documents, referred to in the same.

2. The application had been opposed by present petitioners making various grievances, especially contending that most of the documents sought under application Exhibit-57 were in possession of plaintiff himself and for return of the same, the institution has corresponded with him and issued notice to him.

It is further being submitted that the impugned order is a non speaking order without reflecting upon contentions raised in the application. These submissions are being countered by learned advocate Mr. Rane appearing for plaintiff – respondent No.1, by placing reliance on a decision reported in *2002 (O) BCI 118 : 2003 (1) ALLMR 76 “Ramdas Dhondibhu Pokharkar V. State Bank of India”*. He submits that the court has ample powers to issue witness summons, which the court has directed and though the order is being contended to be non speaking, having regard to observations in paragraph No.8 of the judgment cited, the difference between a witness and a party trails as the trial progresses. He submits that there is no error in passing such an order.

3. Learned advocate further submits that the notices issued for return of documents have been duly replied by the plaintiff.

4. After arguing for some time, parties resile to a situation wherein the petitioners do not have any objection to produce documents referred to in paragraph No.3 of application Exhibit-57 under clause I (अ), (ब) and (क), however as far as document under clause (ड) is concerned, it is submitted that facts will have to be considered.

5. In view of aforesaid, I deem it appropriate that the trial court shall consider application Exhibit-57 accordingly taking into account that the petitioners - defendants have agreed to produce documents under paragraph No.3 clause-I (अ), (ब) and (क) and to hear the parties in respect of documents referred to under clause (द) and pass appropriate orders. For reconsideration, in view of above, the matter is being sent back, as such, the impugned order dated 25th March, 2015 passed by Civil Judge, Senior Division, Amalner is set aside. All the contentions in respect of following of proper procedure are kept open.

6. Writ petition, accordingly, stands disposed of.

[SUNIL P. DESHMUKH, J.]