

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

WRIT PETITION NO.8115 OF 2015

Rekha d/o Kerba Tambade,
Age 45 years, Occu. Business,
R/o Samarth Nagar, Kannad,
Taluka Kannad, Dist. Aurangabad

..Petitioner

Versus

Municipal Council, Kannad,
Through its Chief Officer

..Respondent

Mr P.N. Sonpethkar, Advocate for petitioner
Mr S.S. Shete, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 2nd December 2015

PER COURT

Heard learned Counsel for respective parties.

2. An order passed below Exh.88 permitting the respondent-plaintiff to place on record the statement of accounts in relation to the arrears of rent due to the petitioner-defendant is questioned herein.

3. Learned Counsel for the petitioner Mr Sonpethkar would urge that once the application with the same prayer was rejected on earlier count and in view of the fact that the suit is at an advanced stage, i.e. fixed for final hearing, the application for production of document was rightly rejected by the Court below.

4. Learned Counsel for the respondent herein would urge that perusal of the order impugned would reflect that the order is granted in the interest of justice and so as to decide the real controversy in

the matter. In addition, according to her, the document was very much placed on record at earlier stage of the suit, however, same remained to be exhibited.

5. Having considered the rival submissions, it is required to be noted that the similar prayer was rejected on earlier occasion in relation to exhibiting the same document, which was not challenged by the present respondent, as such the said order will operate as *res judicata*.

6. Apart from above, it is required to be noted that having regard to the stage of suit, at which such application is moved, that too for no good reasons, in my opinion, the application ought to have been rejected.

7. For the reasons herein above, in my opinion, the order impugned in the present petition, passed below Exhibit 88 on 18th August 2014 by the Joint Civil Judge, Junior Division, Kannad is not sustainable.

8. As such, the petition is allowed. The impugned order dated 18th August 2014 is quashed and set aside and said application Exh.88 stands rejected.

(N.W. SAMBRE, J.)

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