

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

CIVIL APPLICATION NO. 12856 OF 2015
IN
WRIT PETITION NO. 6486 OF 2015

Shramsafala Education Society and others ... Applicants

vs

Chandrakant Bhanudas Bhadane and others ... Respondents

Mr. Ajay G. Talhar, Advocate for applicants

Mr. G. S. Rane, Advocate for respondent no.1

CORAM : SUNIL P. DESHMUKH, J.
9TH OCTOBER, 2015

ORDER

1. By order dated 09-09-2015, present writ petition has been disposed of, wherein concession given by the applicants-writ petitioners is recorded.

2. Mr. Talhar, learned counsel for applicants-original writ petitioners (defendants no. 1, 2 and 4 in the suit) states that concession given by his clients with regard to production of documents as per clause I (A), (B) and (C) of paragraph no. 3 of application by plaintiffs (Exhibit-57) in special civil suit no. 72 of 2011 before trial court as referred to in order dated 09-09-2015 of this court was out of misappreciation arising on account of communication gap. As a matter of fact, the applicants contend that they are not in a position to provide documents under clause I

(A), (B) and (C) for the period prior to 1996 and further that they are ready to provide the documents for the period from 1996 onwards to 2008.

3. Learned counsel for the applicants refers to a communication dated 10-09-2015 addressed to him by applicants (Annexure A to civil application) requesting him to seek modification in said order dated 09-09-2015 of this court since the documents referable to clause I(A) of paragraph no. 3 of application (Exhibit-57) before trial court for the period before July, 1996 cannot be procured, further referring to that Mr. Chandrakant Bhadane was the Principal during the period 1990 to July 1996 and he had not handed over pay bills and muster rolls to his successors and he has been given notices in that respect from time to time. The communication further refers to that the applicants are ready to provide documents referred to in clause I (B) and that it had already been given under Right to Information Act. With reference to clause ((C), it has been communicated that the applicants would provide information in respect of salary bills for the period from July, 1996 to 2008. It is further referred to in the communication that details of salary bills for the period from 1990 to July, 1996 are not available and therefore the applicants are not in a position to give the same.

4. Learned counsel for the respondent no. 1 Mr. Rane disputes the position.

5. However, after hearing, parties resile to a situation where- under documents availability of which is accepted under communication dated 10-09-2015 can be supplied to respondents leaving the dispute open over the documents concerning the period prior to 1996 which are stated to be not available, to be decided by the trial court.

6. In view of the same, order 09-09-2015 disposing of writ petition stands substituted by following order.

7. The applicants shall provide documents pursuant to paragraph no. 3, under clauses I(A), (B) and (C) and (D) of application (Exhibit-57) in special civil suit no. 72 of 2011 for the periods as have been referred to in the communication dated 10-09-2015 annexed to present civil application. Inability of applicants over production of documents of certain period as expressed in the communication being disputed by the respondents, the same shall be decided by the trial court in accordance with facts, circumstances and law.

8. In view of aforesaid, the trial court to pass appropriate order with reference to above and consider the dispute among the parties over production of the documents of the period about which inability has been expressed by the applicants and decide said aspect in accordance with facts, circumstances and law.

9. In view of aforesaid, impugned order dated 25-03-2015 passed by 2nd Joint Civil Judge, Senior Division, Amalner, on Exhibit-57 in special civil suit no. 72 of 2011 is set aside. All other contentions in respect of following up of proper procedure are kept open

10. With directions as aforesaid, civil application stands disposed of.

SUNIL P. DESHMUKH, J.

pnd