

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4209 OF 2015

(Ibrahim Abbas Tamboli Vs. Bashir Chaganbhai Tamboli & another)

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders	Court's or Judge's orders
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Mr Mohan B. Jadhav for petitioner.
Mr V. S. Talkute for respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : 24TH JULY, 2015

P.C.:

Heard Mr Mohan B. Jadhav, learned counsel for petitioner and Mr V. S. Talkute, learned counsel for respondent No.1, who is original plaintiff.

2. By this Petition under Article 227 of the Constitution of India, original defendant No.1 has challenged the judgment and order dated 01st April, 2015 passed by the learned Civil Judge, Junior Division, Atpadi, District Sangli in R.C.S.No. 127 of 2005. By that order the learned trial Judge rejected the application filed by defendant No.1 for setting aside no cross order passed against him in respect of plaintiffs witness Ms. Nasarin Bashir Tamboli at Exh.191, Sanjay Kapse at Exh.85, Ms. Salima Tamboli at Exh.198.

3. The learned counsel for the parties stated that, respondent No.1 is only contesting respondent. Mr Jadhav therefore seeks permission to delete respondent No.2. On the motion made by Mr Jadhav, respondent No.2 is deleted from this petition. Rule. Mr Talkute waives service for respondent No.1. At the request and by consent of the parties, rule is returnable forthwith and the petition is taken up for final hearing.

4. Mr Jadhav submitted that in pursuance of order dated 25th June, 2015 passed by this Court, petitioner has deposited Rs.15,000/- towards litigation cost of respondent No.1 in this Court. Mr Talkute states that the trial Court has fixed the next date on 4th August, 2015. Mr Talkute assures that he will ensure PW2 Nasrin Tamboli will remain present in the Court. Mr Jadhav assures that defendant No.1 will complete her cross examination on that day. The assurance given by the learned counsel appearing for parties is recorded.

5. Mr Talkute submitted that by consent of the parties impugned order be set aside and respondent No.1 may be permitted to withdraw Rs.15,000/- unconditionally.

6. In view thereof by consent of the parties impugned order is set aside and application Exh.221 filed by defendant No.1 is allowed.

7. Respondent No.1 will ensure that PW2 Nasarin Tamboli remains present before the trial Court on 4th August,

2015. Defendant No.1 will complete her cross examination on that date. The trial Judge will hereafter give suitable dates for cross examination of PW1 and PW3. Respondent No.1 is permitted to withdraw Rs.15,000/- accordingly.

8. Learned counsel for the parties assure that they will extend full co-operation for recording the evidence. Liberty is reserved to the parties to apply expeditious disposal of the trial. Rule is made absolute in the aforesaid terms. Order accordingly.

(R. G. KETKAR, J.)

Omkar K.