

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7887 OF 2015

Sandip Sports Circle through
President,
Mr. Nashikant Kisan Kamble

Petitioner

Vs

Shir Vitthal Dagdu Kurane and
Ors

.. Respondents

Mr. Siddharth S. Gadve, Advocate for the petitioner.

CORAM : R.G.KETKAR,J.
DATE : 12/08/2015

PC:

1. Heard Mr. Siddharth Gadve, learned counsel for the petitioner at length.
2. By this Petition under Article 227 of the Constitution of India, original defendant no.3 has challenged the order dated 12.3.2015 passed by the learned Civil Judge, Sr. Dn., Kolhapur below Exhibit 63 in Regular Civil Suit No.200 of 2008. By that order, the learned trial Judge observed that the plaintiff had sought document at Exhibit 3/2. The said document is already on record and is at Exh.54. It is further observed that the plaintiff had sought production of original document at Exhibit 3/6. It was observed that the plaintiff can obtain certified copy of that document and produce the same within 15 days.
3. Mr. Gadve submitted that earlier the plaintiff had filed two

applications. Both the applications were rejected and this was the third application for identical relief. The learned trial Judge is adjourning the matter at the behest of the plaintiff on the ground that he has not obtained certified copy of document at Exhibit 3/6. He, therefore, submitted that the impugned order deserves to be set aside.

4. I have considered the submissions of Mr. Gadve. Earlier, the plaintiff had filed application at Exh.27 for issuing witness summons for producing the original documents at Exh.3/2 and Exh.3/6. By order dated 22.1.2010, the learned trial Judge rejected the application by observing that the plaintiff can obtain certified copy from the concerned department to prove his case. The plaintiff thereafter filed application Exh.44 for issuing witness summons. The learned trial Judge rejected that application on the ground that similar application was earlier rejected on 22.1.2010 and, therefore, application Exh.44 is hit by principles of res judicata.

5. The plaintiff thereafter filed application Exh.63 on 23.2.2015. In paragraph 3 of that application, the plaintiff asserted that he had issued notice to defendant no.1 to produce original documents. However, defendant no.1 did not produce the documents. In the impugned order the learned trial Judge noted that Exh.3/2 is already on record and is at Exh.54. As far as document at Exh.3/6 is concerned, the plaintiff can obtain

certified copy within 15 days. Mr Gadve submitted that till date the plaintiff has not produced the certified copy and on that ground suit is adjourned. Perusal of the impugned order shows that the learned trial Judge directed the plaintiff to produce certified copy of the document at Exh. 3/6 within 15 days. The impugned order was passed on 12.3.2015 and till date the plaintiff has not produced certified copy. In view thereof the learned trial Judge will now proceed with the suit as it is evident from the record that the evidence of the defendant is over and the suit is fixed for hearing. Subject to this clarification, no case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed.

(R.G.KETKAR, J.)