

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10231 OF 2015**

Tulshiram Appa Kapse

..Petitioner

Vs.

Sumant Vishnu Pashilkar

..Respondent

Mr. K. S. Deval i/b Mr. J. M. Joshi for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 27th OCTOBER, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 18-9-2015 passed by the Learned Civil Judge Junior Division, Roha, District Raigad, by which order, the application Exhibit 137 filed by the Plaintiff for recording his evidence on commission, came to be rejected. The said rejection is on the ground that in the discharge card produced by the Plaintiff in support of the application, it has not been mentioned that the Plaintiff is not in a position to walk or move. The Trial Court has further observed that the reasons given in the application for evidence to be recorded on commission is not supported by any medical certificate issued in favour of the Plaintiff that on the date of the application dated 24-8-2015, the Plaintiff was not in a position to remain present in Court.

2 In my view, no case for interference in the Writ Jurisdiction of this Court is made out, the Writ Petition is accordingly dismissed. Needless to state that in the event, the Plaintiff produce a medical certificate to the effect that he is not able to walk and move and if any fresh application is filed on the said basis, the Trial Court would consider the same on its own merits and in accordance with law uninfluenced by the impugned order.

[R.M.SAVANT, J]