

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1905 OF 2015.

(NIRANJAN SHANKARRAO MAKESHWAR..VS..ASHOK DADARAO TIDKE.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : JUNE 30, 2015.

Heard Mr.P.S.Patil, the learned advocate for the petitioner.

The petitioner/ plaintiff takes exception to the order passed by the learned trial Judge rejecting the application filed by the petitioner/ plaintiff to lead evidence in rebuttal. The learned trial Judge has considered the matter and has rightly recorded that the petitioner/ plaintiff was aware of the factual aspects right from the beginning and there is no explanation on the part of the petitioner/ plaintiff for not leading evidence on the point earlier. Apart from this, the petitioner has filed pursis dated 2nd March, 2015 closing his evidence reserving his right to lead evidence in rebuttal if required. It cannot be said that the learned trial Judge has committed any error of jurisdiction or has committed any illegality while rejecting the application (Exh.61) filed by the petitioner/ plaintiff.

Mr. Patil, the learned advocate for the petitioner has not been able to point out any provision which enables the learned trial Judge to allow the prayer made by the petitioner/ plaintiff in the application(Exh.61) at the time of

arguments, the learned advocate has submitted that the trial Court could have exercised jurisdiction under Section 151 of the Code of Civil Procedure. However, he has not been able to satisfy that how the provisions of Section 151 of the Code of Civil Procedure can be resorted to, when no such provision has been specifically provided enabling the trial Court to grant the prayer as made by the petitioner/plaintiff.

The petition is dismissed with costs quantified at Rs.Five Thousand to be deposited by the petitioner with the High Court Legal Services Sub-Committee, Nagpur within four weeks. The petitioner shall produce receipt showing the payment, on the record of the trial Court, failing which the trial Judge shall pass appropriate orders in the matter.

JUDGE

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