

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

WRIT PETITION NO.3346 OF 2015

(Aadhar Trading Company Pvt. Ltd., Mumbai, through its Authorised Signatory ..vs.. P.H. Sales & Services Ltd., Akola, through its Managing Director)

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 : 17-06-2015

Heard Shri A.P. Wachasundar, the learned Advocate for the petitioner/defendant.

2. The petitioner/defendant filed an application under Section 151 of the Code of Civil Procedure praying that certain documents which have been marked as exhibits, be de-exhibited. An alternative prayer was made in the application that the verification of the documents as referred to in the application be directed under Order VII Rule 17(2) of the Code of Civil Procedure. The learned trial Judge, by the impugned order, has rejected the application.

The petitioner/defendant being aggrieved in the matter, has filed this writ petition.

3. Shri A.P. Wachasundar, the learned Advocate for the petitioner/defendant has made several submissions including submission relying on the provisions of the Bankers Books Evidence Act, 1891 and on the provisions

of Order VII Rule 17 of the Code of Civil Procedure. However, as the petition is filed against an interlocutory order, I am not inclined to consider the submissions made on behalf of the petitioner as consideration of the submissions by this Court would adversely affect the decision by the trial Court on the points. The petitioner/defendant has filed the application to de-exhibit the documents which came to be exhibited on 05-03-2014. The petitioner/defendant had raised the objection at the time of exhibiting the documents. Recording the objection raised on behalf of the petitioner, the learned trial Judge has exhibited the documents. After 05-03-2014, the further proceedings of civil suit have progressed, the petitioner/defendant has cross-examined the plaintiff and has also led evidence. The petitioner/defendant has filed pursis (Exhibit 534) on 19-05-2015 closing his evidence. After filing the pursis, the petitioner/defendant filed the application (Exhibit 535) praying that the documents referred in the application be de-exhibited. There is no explanation on behalf of the petitioner as to why the order passed by the trial Court on 05-03-2014, overruling the objection taken by the petitioner to exhibit the documents, was not challenged immediately. The learned trial Judge has properly considered all the aspects and has rejected the application filed by the petitioner/defendant. I see no reason to interfere with the impugned order.

4. The writ petition is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

pma