

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5337 OF 2015

Watsalabai Sadashiv Chimurkar & Ano. Vs. Sarita Vivekanand Khobragade & Ano.

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

Court's or Judge's Order

Shri V. N. Morande Adv for petitioner.
Shri M. P. Khajanchi Adv for respondent.

CORAM: A.S.CHANDURKAR J.

DATED: 27th NOVEMBER, 2015.

Petitioner is aggrieved by the interlocutory order passed by the trial Court recalling a witness as according to trial Court such course would help the Court in clearing the ambiguity in the matter.

Shri V. N. Morande, learned counsel for the petitioners submitted that the witness in question was examined on 09.09.2014 and after almost one year the application below Ex. 126 was moved. According to him same would cause prejudice to the case of the petitioners.

Shri Khajanchi learned counsel for the respondent by relying upon the judgment of the Supreme Court in *K. K. Velusamy*

Vs. N. Palanisamy (2011) 11 Supreme Court Cases 275 submits that the trial Court had granted permission as it has found the same necessary for clearing the ambiguity.

I have heard respective counsel and perused the observations of the Supreme Court in paras 11 and 14 of the aforesaid judgment. It cannot be said that the trial Court has acted with material irregularity in allowing the application below Ex. 126. Recalling of said witness having been found necessary for clearing the ambiguity there is no case made out to interfere in writ jurisdiction. Petition is therefore rejected. No costs.

JUDGE

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