

THE HONOURABLE SRI JUSTICE DILIP B.BHOSALE
CIVIL REVISION PETITION No.4085 OF 2012

P.C.:

The CRP is placed before Court today in chamber at the instance of learned counsel for the petitioner. He brings to my notice, the order dated 30.03.2011 and submits that he was not aware about the said order when I disposed of the CRP and in view of that order, it was not open to the Court below to pass the impugned order dated 02.07.2012. In other words, he submits that the Court below completely overlooked the earlier order dated 30.03.2011, while passing the impugned order.

The order dated 30.03.2011 reads thus:

“Defendant No.3 & 4/DW3 and their counsel are called absent during call work several times thereafter even before lunch. Costs not paid by the defendant no.3 & 4. They are already directed to be prompt and diligent in future proceedings of the suit. Even then it appears that they are not showing the required interest in further progress of the suit and to co-operate with the advocate commissioner who is appointed to record the evidence of DW3. The advocate commissioner is called present. In view of all the above, the chief examination of DW3 recorded is eschewed and the evidence of D3 & D4 is closed.

The plaintiff counsel is also called present and he insists quick disposal of the suit. For argument call on 8.04.2011 The defendant no.3 & 4 are once again directed by this court to be prompt and diligent in future proceedings of the suit. 8.4.2011 Advocate commissioner returned warrant”.

In this view of the matter, he prays for recalling the order dated 13.03.2015 passed by this Court and prays for withdrawal of the CRP with liberty to the petitioner to file application before the Court below for recalling the impugned order dated 02.07.2012 passed on I.A.No.104 of 2011.

The order dated 13.03.2015, disposing of the CRP is according recalled and the CRP is disposed of as withdrawn with liberty as prayed.

All contentions on merits are kept open. While granting the liberty, I have not examined merits of the case. I hope and trust that the Court below, while considering the application for recall of the order dated 02.07.2012, shall grant an opportunity of being heard to respondent Nos.3 and 4 in particular.

Miscellaneous petitions pending in the Civil Revision Petition, if any, also stand disposed of.

DILIP B.BHOSALE, J

18th March, 2015.

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