

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

CIVIL REVISION PETITION No.5380 OF 2015

ORDER:

Though Mr. V. Jagapathi, learned counsel for the petitioner/plaintiff, has strenuously contended that the affidavit filed by the respondent/defendant in support of the application to set aside the *ex parte* decree is not an affidavit of the defendant, but is completely interpolated and though he has relied upon the written statement and claimed to have several documents to establish the same, at this stage, I am not inclined to interfere with the discretion exercised by the Court below in setting aside the

ex parte decree on the request of the petitioner. All these questions are left open to be urged by the petitioner when the trial of the suit proceeds and the record also shows that the petitioner has also filed an application under Section 45 of the Indian Evidence Act, 1882 for examining the signatures of the respondent through an expert and the Court below can also consider all these circumstances during the trial of the suit and pass appropriate orders as and when the situation arises. The impugned order of the Court below setting aside the *ex parte* decree was passed on the satisfaction of the Court below and this Court under Article 227 of the Constitution of India does not normally interfere with such discretion, unless it is extremely perverse.

Hence, reserving liberty to the petitioner to take all necessary steps to urge his contentions on merits including the disputed signatures of the respondent, this Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

11.12.2015
KH

VILAS V.AFZULPURKAR, J