

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.109 OF 2010
WITH
CIVIL APPLICATION NO.474 OF 2016

SHRI PRABHUDAS MADHAV JANJALKAR

PETITIONER

VERSUS

KASINATH SHANKAR MAHAJAN
AND OTHERS

RESPONDENTS

Mr.M.S.Deshmukh, Advocate for the petitioner.

Mr.A.G.Talhar, Advocate for respondent Nos.1,2, 11 to 14, 16, 17, 19,
22 and 23.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 15/01/2016

PER COURT :

1. The petitioner is aggrieved by the order dated 17/12/2009 by which application Exh.112 has been disposed of and the applicant was permitted to proceed with the cross examination.

2. Contention is that the petitioner had posed a question to defendant nos.11 to 24 in RCS No.44/1986. Besides answering the question, the witness volunteered to make a statement. Contention of the petitioner is that the voluntary statement made should have been recorded first.

3. An application Exh.112 was filed for requesting the Trial Court to record the answer and the voluntary statement.

4. The Trial Court, while passing the impugned order, has noted that the question and answer at issue have been recorded and the clear answer given by the plaintiff has also been recorded in the presence of the petitioner.

5. Mr.Deshmukh, learned Advocate for the petitioner has criticized the impugned order on the basis of the above submissions.

6. Mr.Talhar, learned Advocate for some of the respondents has supported the impugned order. He submits that the question as well as the answer at issue have been recorded by the Trial Court in the cross examination of the plaintiff. The petitioner, therefore, cannot have any grievance.

7. I have considered the submissions of the learned Advocates as recorded hereinabove.

8 I do not find that any injustice can be said to have been caused to the petitioner by the impugned order.

9. This petition is, therefore, dismissed. In the event, RCS No.44/1986 has still not been decided by the Trial Court, the same shall be decided as expeditiously as possible and preferably on or before 30/04/2016.

10, In the light of this order, CA No.474/2016 does not survive and is disposed of.

(RAVINDRA V. GHUGE, J.)