

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.892 OF 2016

Shekhar Chintamani Karandikar ... Petitioner
Vs.
Mahesh Mahaling Islampure ... Respondent

Mr. Uday Warunjikar i/b. Mr. P. D. Pise for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : AUGUST 23, 2016

P.C. :

Heard Mr. Warunjikar, learned Counsel for the petitioner at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 07.08.2015 passed by the learned Civil Judge, Junior Division, Miraj below exhibit-16 in Regular Civil Suit No.346 of 2013. By that order, the learned trial Judge allowed the application made by the respondent under Order VI, Rule 17 of the Code of Civil Procedure, 1908 (for short 'C.P.C.') for amending the plaint. Mr. Warunjikar invited my attention to the application dated 07.08.2015 made by the petitioner inter alia contending that application exhibit-16 was kept for arguments on 07.08.2015. As the petitioner-defendant was not ready to argue the matter, oral application for adjournment was made. The hearing of application exhibit-16 was adjourned to 14.09.2015. In view thereof, the next date was communicated by the petitioner's Advocate to the respondent's Advocate whereupon he did not raise any objection. As the hearing of application exhibit-16 was adjourned to 14.09.2015, Advocate for the petitioner left the Court hall for attending other work. Advocate for the respondent, however, completed the argument. Request was, therefore, made to

permit the petitioner to advance arguments on 14.09.2015. On the same day, the learned trial Judge disposed of the application on the ground that application was made after passing of order below exhibit-16. Mr. Warunjikar submitted that perusal of the order dated 07.08.2015 below exhibit-16 shows that petitioner was not heard.

3. Perusal of the application made by the petitioner shows that the petitioner came with the case that oral application was made for postponing the hearing of the application exhibit-16. Prima facie, there is nothing on record to substantiate the said case. It is however, open to the petitioner to move the same Court for review of the impugned order by raising the contentions raised in the application at exhibit-F (pages 36 and 37). Reserving the liberty as aforesaid, no case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed. If application is made by the petitioner, the same shall be disposed of on its own merits and in accordance with law, uninfluenced by the observations made herein. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab