

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13802 OF 2016

Ajit Bapu Marsute ... Petitioner
Vs.
Jineshwar Shrikant Marsute and others ... Respondents

Mr. Manoj Patil for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : DECEMBER 15, 2016

P.C. :

Not on Board. At the request of Mr. Patil, learned Counsel for petitioner, taken up for 'admission'.

2. By this Petition under Article 227 of the Constitution of India, petitioner, hereinafter referred to as 'defendant No.1', has challenged the judgment and order 11.11.2016 passed by the learned 2nd Joint Civil Judge, Junior Division, Jaysingpur below exhibit-187 in Regular Civil Suit No.87 of 2004. By that order, the learned trial Judge rejected the application made by the defendant No.1 for production of the documents.

3. Perusal of paragraph 2 of the impugned order shows that the learned trial Judge recorded that Advocate for the defendant has finished his arguments. In paragraph 5, the learned trial Judge noted that defendant No.1 had filed application for leading secondary evidence. The said application was allowed and defendant was permitted to lead secondary evidence in respect of the very documents, which are sought to be produced. Instead of leading secondary evidence, defendant No.1 voluntarily closed his evidence and finished his arguments also.

4. For the reasons recorded in paragraph 5 of the impugned order, I do not find that the learned trial Judge has committed any error in rejecting the application. Hence, Petition fails and the same is dismissed. However, it is made clear that where a decree is challenged by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the proposed proceedings as contemplated by Section 105(1) of C.P.C.

(R. G. KETKAR, J.)

Minal Parab