

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

WRIT PETITION NO. 1235 OF 2016

Mr.Jitendra Rajaram Sawant.

... Petitioner

Vs

Dr.Hari Tulshiram Gholap & ors.

... Respondents

Mr.Nitin Deshpande a/w Mr.Mihir Raut, for the Petitioner.

Mr.Abhijit Kulkarni, for Respondent Nos.1 & 2.

***CORAM : N.M.Jamdar, J.
Tuesday, 6 September 2016.***

P.C. :

By this Petition, the Petitioner challenges the order dated 2 December 2015 passed by the learned Civil Judge Senior Division Pune, below Exhibit 330 in Summary Suit No.207 of 2009 wherein the Application filed by the Petitioner for re-examination has been rejected.

2. The learned counsel for the Petitioner submitted that the Petitioner seeks to explain how the amount in question was received by the Petitioner, which explanation was not given in the evidence and no prejudice will be caused if the evidence is allowed to be led as the Respondents will have an opportunity to cross-examine. This submission cannot be accepted. The Petitioner during the cross-

examination has given evasive answers to specific queries by Respondents-Plaintiffs. The Petitioner has also given certain admissions by not replying to specific queries when opportunity was given. The Respondents-Plaintiffs have accrued valuable rights to rely on the conduct of the Petitioner, to draw an inference against the Petitioner. The learned Judge was justified in holding that the right accrued to the Respondents-Plaintiffs cannot be taken away in this fashion. Apart from this position, the learned Judge has kept the issue open for the Petitioner to contend on the basis of the bank statement. The Petitioner will get an opportunity as clarified by the learned Civil Judge. In the circumstances no jurisdictional error or failure of justice has occasioned while passing the impugned order. Writ Petition is accordingly rejected.

3. The learned counsel for the Respondents has placed on record the order passed in Writ Petition No.6435 of 2013 wherein the learned Single Judge of this Court (R.M.Savant, J.) by order dated 7 April 2014 has directed the learned Civil Judge, Pune to dispose of the suit latest by 31 January 2015 i.e. within period of eight months. In view of this time bound direction given on 7 April 2014, the learned Civil Judge, will dispose of the suit within period of six months from today. Registry to communicate the order forthwith.

(N.M.Jamdar, J.)