

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4141/2016

Arjunlal Ganeshlal Jaiswal and another
..VS..
Shantabai Badrilal Vyas and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.
DATED : 20.7.2016.

Heard Shri H.N. Potbhare, Advocate for the petitioners - original plaintiffs.

By the impugned order, the learned trial Judge has rejected the application (Exh. No.33) filed by the plaintiffs seeking review of the order passed on application (Exh. No.32). The application (Exh. No.32) was filed by the plaintiff No.1 seeking permission to file affidavit in lieu of examination-in-chief and to lead evidence. The case of the plaintiff No.1 is that he was not keeping well and was busy in marriage of his relatives and, therefore, he could not file his affidavit in lieu of evidence before the evidence of plaintiff No.2 is recorded. The learned trial Judge has recorded that the plaintiff No.1 had earlier filed his affidavit in lieu of examination-in-chief before the evidence of plaintiff No.2 started, however, the same was withdrawn. It is further recorded that the facts on record show that the plaintiff No.1 is attempting to overcome the provisions of Order 18 Rule 3-A of the Code of Civil Procedure by seeking permission sought by application (Exh. No.32).

I do not see any illegality in the impugned order. The learned trial Judge has exercised his jurisdiction properly and there is no error of jurisdiction. I do not see any reason to interfere with the impugned order. The writ petition is **dismissed**. No costs.

JUDGE

Tambaskar.

CERTIFICATE

“ I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order”.

Uploaded By : N.V. Tambaskar.
Personal Assistant.

Uploaded On : 21.7.2016.