

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

WRIT PETITION NO.5798/2014

Ganesh S/o Eknath Shindkhedkar (Patvi)

..VS..

Sau. Pushpa w/o Ramesh Shindkhedkar

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 : 22.7.2016.

Heard Shri S.A. Mohta, Advocate for the petitioner - original defendant and Shri M.G. Sarda, Advocate for the respondent - original plaintiff.

The petitioner has challenged the order passed by the trial Court rejecting the application (Exh. No.69) praying that the documents exhibited at the time of recording of evidence in chief of the plaintiff be de-exhibitted. The contention of the petitioner is that the matter was fixed for recording of evidence of plaintiff on 4th April, 2014, that an application was made on behalf of the defendant seeking adjournment, that adjournment was granted, however, the evidence in chief is recorded after grant of adjournment on 4th April, 2016 and the documents referred in chief are exhibited. To support the contention, the learned Advocate for the petitioner - defendant has referred to the order passed by the trial Court on 4th April, 2014 which reads as :

“This application is filed by the defendant for grant of time to cross-examine the witness. Perused the say. Detailed say was given by the plaintiff. I have heard the learned Advocate Shri S.S. Sarda for plaintiff. He has submitted that still documents are to be exhibited in examination-in-chief of the

witness. Therefore, I am of the opinion that one adjournment can be granted for cross-examination. Hence, time granted till next date.”

The above order shows that the adjournment was granted by the trial Court on 4th April, 2014 and documents referred in the evidence in chief of the plaintiff were not exhibited. It is clear that the documents are exhibited at the back of the defendant and his Advocate. Hence, in my view, the prayer made by the petitioner - defendant in application (Exh. No.69) should have been allowed.

Hence, the following order:

- (i) The application (Exh. No.69) filed by the petitioner - defendant is **allowed**.
- (ii) The documents exhibited while recording of evidence in chief of the respondent plaintiff are directed to be de-exhibitted.
- (iii) The learned trial Judge shall allow the plaintiff to enter the witness box and exhibit the documents, according to law.
- (iv) The defendant undertakes to attend the proceedings on the next date and also assures that the defendant will not seek adjournment.
- (v) As the civil suit is of 2009, the trial Court shall dispose the civil suit till 30th March, 2017.
- (vi) The petition is **allowed** in the above terms.
- (vii) In the circumstances, the parties to bear their own costs.

JUDGE

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 : 26.7.2016.