

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2921 OF 2017

Nanda Dinkar Chaudhari
Age: 55 years, Occu.: Business,
Owner of Shri Samarth Food Products
R/o M-193, MIDC Jalgaon,
Tq. and Dist. Jalgaon.

..PETITIONER

VERSUS

1. Kiran Govinda Bhangale
Age: 48 years, Occu.: Business,
R/o M-192, MIDC Jalgaon,
Tq. & Dist. Jalgaon.

2. Vivek Shankar Chaudhari
Age: Major, Occu.: Business,
R/o Plot No. 26, 141/2,
Behind Chimukale Ram Mandir,
Ayodhya Nagar, Jalgaon.

3. The Regional Manager,
Maharashtra State Industrial Development
Corporation, Jalgaon.

..RESPONDENTS

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Mr. A.G. Talhar, Advocate for petitioner.
Mr. S.P. Brahme, Advocate for Respondent No.1.

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**CORAM : S.B. SHUKRE, J.
DATED : 15th MARCH, 2017**

ORAL JUDGMENT :

1. Heard learned Counsel for petitioner. Issue notice for final disposal to Respondent No.1. Notice to other respondents is not required

as they are not the contesting parties. Mr. Brahme, learned Counsel waives service of notice for Respondent No.1.

2. Rule. Rule made returnable forthwith. Heard finally by consent of both sides.

3 By this petition, the legality and correctness of the order dated 16th January, 2017 passed by the 3rd Joint Civil Judge, Senior Division, Jalgaon in Civil Suit No. 109 of 2007 has been questioned.

4. Learned Counsel for petitioner submits that the application (Exhibit 201) below which the impugned order has been passed was moved by the petitioner only to emphasise the point that original plaintiff i.e. Respondent No.1 has not approached the Court with clean hands. Learned Counsel for Respondent No.1 refutes it. He submits that Respondent No.1 has made himself very clear that he is not relying upon the document in question which is at Exhibit 92 and this would only show the conduct of Respondent No.1 is clean or otherwise such a candid expression of mind would not have been there.

5. The impugned order shows that the learned Civil Judge has

rejected the application viz. Exhibit 201 on the ground that there was neither any appropriate nor any good reason for allowing the application in a backdrop punctuated by admission of original plaintiff that he was not relying upon the document in question. The three applications viz. Exhibits 199, 200 and 201 arise from the issue of examining the witness i.e. examiner of disputed document in respect of the document in question which is at Exhibit 92.

6. These reasons, I do not think, could be seen as steeped in any perversity or illegality. It is well settled principle of law that extraordinary writ jurisdiction can be invoked only in those cases where the orders under challenge are perverse or illegal or are so illogical that they could not have been passed the way they have been in the ordinary course. The impugned order does not fall in any of these categories.

7. As regards conduct of the plaintiff, I must say, it is for the Trial Court to determine the same in the facts and circumstances of the suit.

8. There is no merit in this petition. Petition stands dismissed with costs. It is also directed that the suit, which appears to be about ten years, shall be disposed of as expeditiously as possible and in any case

within a period of two months from the date of the order. Parties shall cooperate with the Trial Court in expeditious disposal of the matter. Rule is discharged.

(S.B. SHUKRE, J.)

SSD