

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10241 OF 2016

Shreeniwas Madhav Bhandari

Age – 72, occupation _ Retired,

R/o 2115, Nagarpatti,

Opposite UCO Bank, Dhule

.. Petitioner/original
Plaintiff

versus

01. Sanjaykumar Premchand Popli

Age-49, Occupation-Business,

R/o Ner, Taluka and District Dhule

02. Dineshkumar @ Dinendra Premchand

Popli,

Age-47, Occupation-Business,

R/o Ner, Taluka and District Dhule

.. Respondents/
Original
Defendants

Mr. Mohan C. Jain, Advocate for petitioner

Mr. N.B. Suryawanshi, Advocate for respondent no. 1

CORAM : SUNIL P. DESHMUKH, J.

DATE : 9th August, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for the parties finally, by consent.

2. Petitioner – original plaintiff is before this court, aggrieved by order passed by the second Joint Civil Judge, Junior Division, Dhule on application Exhibit 150, rejecting plaintiff's request to reissue summons to witness, reading thus;

" Perused the application, say and entire record. In this matter several occasions the summons was issued to the witness quoted in Exh.12, 3 and on several occasions it has been served, even though the said witness remain absent. Now again same sought of application to issue summons to the same witness is filed by plaintiff. Matter is lying on the same stage from 2013. Matter is quite old, and as per the direction of Hon'ble High Court Bombay old matters have to be expedite. In the event of allowing this application it could not be possible to dispose of matter in near future. Hence this application is liable to be rejected. Hence rejected. "

3. Perusal of order shows that since the matter is considered to be old and the high court had issued direction to

expedite old matters, the request made under application Exhibit 150 to issue summons again to one Mr. Rajesh Mehta has been turned down.

4. Mr. Jain learned counsel appearing on behalf of the petitioner submits that often witness summonses were issued and on a few occasions when witness had been present he could not be examined, for, the circumstances were not under the control of the petitioner. He refers to chronology of events as given under the synopsis and urges this court to consider the request under Exhibit-150 for reissue of witness summons.

5. Learned counsel Mr. Suryawanshi appearing on behalf of respondents-defendants resists the request, referring to that the matter is of 2009 and the witness had been present on couple of occasions but had not been examined.

6. It thus appears that witness summons had, in fact, been issued and reissued on quite a few occasions to the concerned person and on some occasions when the witness had been present in the court, he could not be examined for the reasons not attributable to the petitioner.

7. In the circumstances, it would be expedient to allow application Exhibit – 150, to serve summons on witness and give priority to his examination.

8. Application Exhibit – 150 as such is allowed. Witness referred to in the same shall be served by all the possible modes and his examination be conducted by giving priority by all concerned. Rule made absolute accordingly.

9. In view of aforesaid, writ petition is allowed in terms of prayer clause (C) and is disposed of.

SUNIL P. DESHMUKH
JUDGE

pnd