

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

58 WRIT PETITION NO. 14609 OF 2017

DILIP LALASAHEB KOKATE
VERSUS
SHAHAJI LALASAHEB KOKATE AND OTHERS

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Advocate for Petitioner : Mr. V. D. Salunke.
AGP for Respondent : Mr. P. N. Kutti.

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CORAM : **V. K. JADHAV, J.**
DATE : 18th December, 2017.

ORDER:

. I find no substance in this writ petition. Initially, Respondent / Plaintiff has filed an application Exhibit 25 for witness summons to one Subhash Nagnath Bet, Notary, Solapur and the Trial Court without calling upon the Petitioner to file the say to the said application by order dated 16th January, 2016 directed to issue summons to the said witness. Thereafter, Petitioner / original Defendant No.3 has filed an application Exhibit 59 stating therein that the Petitioner / Defendant No.3 has examined the said witness in his suit bearing Regular Civil Suit No.231 of 2009 to prove the memorandum of partition dated 17th December, 2007. It has been also contended in the application that the statement of said witness Subhash was recorded below Exhibit 40 in Regular Civil Suit No.231 of

2009. Accordingly, the Petitioner / Defendant No.3 has prayed in the application Exhibit 59 that the Plaintiff may not be permitted to examine said witness Subhash as a witness in the present suit. It appears that Defendant No.3 had instituted another suit bearing Regular Civil Suit No.231 of 2009 in which he has examined said witness Subhash as his witness. The Respondent / Plaintiff has strongly resisted the said application Exhibit 59 on the ground that the properties in both the suits are different and the said witness being a Notary, is an important witness.

2 The learned Judge of the Trial Court has rightly observed that it is a choice of the Plaintiff to summon the witness to substantiate his case. There is no implied or expressed bar provided in any Act to examine the witness who has already been examined by other side in different proceedings. The writ petition is thus, dismissed. No costs.

[V. K. JADHAV, J.]

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