

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10258 OF 2017

Enkel Castalloy Ltd.	...Petitioner
Versus	
Maharashtra Engineers & Ors.	...Respondents

Mr.Jaydeep Deo for the Petitioner.

CORAM: M.S.SANKLECHA, J
DATED: 14th September,2017

PC:-

1. Moved for urgent relief.
2. On instructions Mr.Deo, learned Counsel for the Petitioner seeks to delete Respondent Nos.2 to 8. Permission is granted. Amendment to be carried out forthwith. Re-verification dispensed with. Mr.Deo, learned Counsel appearing for the Petitioner states that Respondent No.1 has been served. Despite the service none appears.

3. This Petition challenges the order dated 6th June, 2017 passed by the Civil Judge Senior Division, Kolhapur. The impugned order rejected the Petitioner's application for issuing witness summons to Appraiser of Customs Air Cargo Unit (SHED), IGI Airport New Delhi.

4. The impugned order dated 6th June 2017 is based on the ground that in terms of Order XVI Rule 1(3) of the Code of Civil Procedure, 1908 (Code), the Court can call any witness other than those whose names appears in witness list, if the party shows sufficient cause for the omission to mention the name of such witness in its list of witnesses.

5. In the present facts, no list of witnesses were filed by the Petitioner. Further as the impugned order records there is no attempt even made by the Petitioner as to why the names of the witnesses sought to be summoned, were not filed earlier as list of its witness. Therefore, the occasion to issue a witness summons does not arise in the present facts.

The impugned order placed reliance upon the decision of this Court in *Sanjay V/s. Ramesh, 2014(4) ALL MR 19*, wherein on identical facts on application for witness summons was rejected.

6. In the above view, no fault can be found with the impugned order dated 6th June, 2017 which would call for interference under Article 227 of the Constitution.

7. Accordingly Petition dismissed. No order as to costs.

(M.S.SANKLECHA,J)