

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

WRIT PETITION NO. 3226 OF 2016

(CHANDIKAPRASAD SHIVDUTT SHUKLA....VS.. SANTOSH PANNALALJI CHANDAK & 3 OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.D.Hajare, advocate for Petitioner.
Shri R.R.Dawda, advocate for Respondent Nos. 1 and 2.

CORAM : Z.A.HAQ, J.

DATED : MARCH 30, 2017.

Heard.

The original defendant No.1 has challenged the order passed by the trial Court rejecting application (Exh.63) filed by him under Order XVIII Rule 17 of the Code of Civil Procedure praying that the plaintiff be recalled for further cross-examination.

The contention of the petitioner/ defendant No.1 is that after the cross-examination of the plaintiff was over certain relevant facts came to his knowledge and therefore, the application (Exh.63) came to be filed.

The application is not supported by affidavit. It is not signed by the defendant No.1. The application is filed under the signature of the advocate for the defendant No.1. In such situation, the prayer made by the defendant No.1 in the application (Exh.63) cannot be considered. Apart from this, the provisions of Order XVIII Rule 17 of the Code of Civil Procedure does not enable the defendant No.1 to seek recall of the plaintiff for further cross-examination.

I see no reason to interfere with the impugned order.

The petition is **dismissed** with costs of Rs.Five Thousand to be paid by the defendant No.1 to the plaintiff within one month.

Copy of the receipt showing payment of costs shall be produced by the defendant No.1 on the record of the Civil Court, failing which the trial Court may pass appropriate orders considering it to be non-compliance of the order passed by this Court.

As the civil suit is of 2012, the trial Court shall dispose the civil suit till 15th September, 2017.

JUDGE

RRaut..