

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

WRIT PETITION NO. 1109 OF 2018

ANIL SANTOSH BHAGAT
VERSUS
RAMCHANDRA HARI AHIRE AND OTHERS

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Advocate for the Petitioner : Shri Kedar Balbhim R..
AGP for Respondents 2 and 3 : Shri V.S.Badakh.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 31st January, 2018

Per Court:

1 The Petitioner is aggrieved by the order dated 04.07.2017 passed by the Trial Court by which, the application praying for recalling of the "No Cross Order" has been allowed by a cryptic and unreasoned order. The Petitioner is specifically aggrieved by the fact that minor costs have been imposed though the Defendants have unnecessarily delayed the matter.

2 The learned Advocate for the Petitioner has strenuously criticized the impugned order primarily on the ground that the impugned order is not a speaking order. The conclusions drawn are not supported with reasons. The contentions of the parties have not been considered and the impugned order does not reflect that the Trial Court has applied it's

mind to the said contentions.

3 The Petitioner/ Plaintiff has filed RCS No.177/2014. In 2016, the stage of recording the evidence has reached and the Plaintiff led evidence by filing an affidavit in lieu of examination-in-chief. On 23.02.2016, the Defendants partly cross-examined the Plaintiff and then sought adjournment. Thereafter, the Defendants did not cross examine the Plaintiff for seven months and finally, the Trial Court passed the "No Cross Order" on 23.09.2016. The application for recalling of the "No Cross Order" was filed by the Defendants on 29.10.2016, which is within a period of about five weeks. The impugned order indicates that the litigating sides were heard by the Trial Court on 04.07.2017 and an order was passed allowing the application, thereby, recalling the "No Cross Order" by imposing costs of Rs.500/-.

4 It requires no debate that a judicial order to be passed by the court must be a reasoned order. By merely observing in the order, as has been done in this case, that "*perused application and say. Heard both sides.*" would not be enough. The Trial Court is expected to assign reasons by referring to the contentions of the parties and upon being convinced that the application deserves to be allowed, must pass an order drawing its conclusions, which ought to be based upon the reasons assigned.

5 In the light of the above, though the conclusions drawn in the impugned order cannot be faulted as the Defendants had filed their

application on 29.10.2016 praying for recalling of the "No Cross Order" dated 23.09.2016, the Trial Court was expected to assign reasons while passing the orders. As such, I find it appropriate to observe that the learned Civil Judge, Senior Division, Bhusawal, who has passed the impugned order shall hence forth keep in mind that judicial orders must contain reasons so as to indicate application of mind and base it's conclusions on such reasons.

6 Rs.500/- cost has been awarded by the Trial Court. When the application for recalling the "No Cross Order" was filed within five weeks, the Trial Court appears to have considered that the litigating sides are agriculturists and has imposed costs of Rs.500/-. No doubt, the said costs could have been more to the extent of Rs.1000/-. However, for the said purpose, I do not find that this petition should be kept pending in this Court.

7 With the above observations, this Writ Petition is disposed of.

8 The learned Registrar (Judicial) of this Court is directed to place a copy of this order before the learned Civil Judge, Senior Division, Bhusawal, who has passed the impugned order dated 04.07.2017 in RCS No.177/2014.