

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13645 OF 2018

SANGRAMNATH BHARATRAM DELMADE
VERSUS
SHANTABAI BHIMRAO ERANDKAR AND ANOTHER

...
Advocate for Petitioner : Mr. Gangakhedkar Shailendra S

.....

CORAM : N. M. JAMDAR, J.
DATED : 10 DECEMBER 2018

PER COURT:-

1. The petitioner has challenged the order passed by the learned Civil Judge, Senior Division, Basmat, dated 6 October 2018 rejecting applications below Exh. 91 and 96. The main relief sought for by the petitioner in this petition is to set aside the order of closing of evidence dated 19 December 2015.

2. The application filed by the petitioner Exh.91 for recalling of the order only states that on 19 December 2015 the petitioner was unwell. The application was filed on 20 May 2018. This application was resisted by the respondent-plaintiff stating that no medical certificate was produced and the reason of pendency of petition in respect of other interlocutory order has no connection to this issue.

3. The learned Civil Judge, having taken note of the observations

of this court made in the order passed in the petition filed by the petitioner earlier, has dismissed the application.

4. The application filed by the petitioner does not disclose any cogent reason for delay of three years. If the petitioner was unwell in the year 2015, nothing stopped the petitioner from filing the petition thereafter. The petitioner had filed a petition in respect of other interlocutory orders and therefore, the petitioner was fully aware of the implications of the orders. When the earlier writ petition was dismissed, the petitioner gave undertaking to this Court that the petitioner will not adduce any evidence in support of the documents and the amended pleadings. Considering the undertaking that he will not seek any adjournment at the time of final hearing of the suit, the Court has observed that there would be no prejudice to the plaintiff. After having given this undertaking the petitioner is again making attempt to re-open the issue and to prolong the hearing of the suit.

5. In these circumstances, this writ petition cannot be entertained and is accordingly rejected.

(N. M. JAMDAR, J.)

rlj/