

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

WRIT PETITION No.13601 OF 2018

Vishal Subhashchandra Sahani ... Petitioner

Versus

Rushi Rajesh Kapur ... Respondent

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Mr N C Garud advocate for petitioner.

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Coram : N.M. Jamdar, J.

Date : 7 December 2018.

ORAL ORDER :-

1. Heard learned Counsel for the petitioner.
2. By this petition, the petitioner has challenged the order passed by the learned Civil Judge, Ahmednagar dated 24 September 2018 rejecting the application of the petitioner/defendant to send the alleged document dated 2.1.2015 to a hand writing expert.
3. The affidavit of evidence has been filed on 17.8.2017. The written statement was filed on 9 June 2015. The temporary injunction was issued as not to create third party rights. Issues were framed. Thereafter, taking various dates for cross examination, after 11 months, an application for sending the document to hand writing

expert was filed. The learned Civil Judge has noted that, the burden is placed on the plaintiff as to how the document has come into existence and both sides will have to first establish their case as per the evidence and at the stage when the suit is substantially proceeded after 11 months, no such application can be entertained.

4. I have perused the application filed by the petitioner. It gives no reason whatsoever why there was delay in giving this application. The learned Civil Judge after considering the fact that the suit is of the year 2015 was naturally anxious to proceed with the suit. Without giving any explanation for delay whatsoever, the application has been filed. The petitioner was not diligent about his rights at all. No equitable relief can be extended to the petitioner. In any case, the petitioner has all the opportunity to prove his case in the pending suit. Writ petition is accordingly rejected.

(N.M. Jamdar, J.)

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