

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 3884 OF 2017****Hemraj Mundada****..... Petitioner****VERSUS****Vishnu Maruti Ghosale & Ors.****..... Respondents**

Mr.Nachiket V.Khaladkar for the Petitioner.

Mr.Abhaykumar Apte for the Respondent no.6.

CORAM : R.D. DHANUKA, J.**DATE : 22nd OCTOBER, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 10th November, 2016 passed by the learned trial judge below Ex.55 rejecting the application filed by the petitioner (original plaintiff) seeking direction to the defendant no.6 to reply the interrogatories raised in paragraph no.5 (a to d) of the application (Ex.55).

2. The suit is at the evidence stage. The defendant no.6 has already filed written statement.

3. A perusal of the issues framed by the learned trial judge and the impugned order indicates that the learned trial judge has rightly considered that the suit has been filed for a declaration and injunction. There was no issue framed in respect of the mortgage of the suit property. The application made by the plaintiff for seeking

interrogatories was totally vague and without disclosing the necessity. The interrogatories in the said application (Ex.55) were not connected to the issues framed by the trial court. Considering these facts, the learned trial judge has rejected the said application (Ex.55) on the ground that the same was not within the four corners of the scope of Order 11 Rule 1 of the Code of Civil Procedure, 1908. I do not find any infirmity in the impugned order passed by the learned trial judge.

4. It is for the petitioner to cross examine the defendant as and when the defendant enter the witness box and to ask questions which according to the petitioner would be relevant for the purpose of considering the issues framed by the trial court.

5. I am therefore not inclined to interfere with the impugned order passed by the learned trial judge.

6. Writ petition is disposed of in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]

Kanchan
Vinod
Mayekar

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by Kanchan
Vinod Mayekar
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