

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5626 OF 2018

Kashiram S. Jangi

..... Petitioner

VERSUS

Prabhadevi H. Varma & Ors.

..... Respondents

Mr.R.M.Haridas, i/b. Mr.Prasad P. Kulkarni for the Petitioner.

Mr.Satish Raut for the Respondent no.1.

CORAM : R.D. DHANUKA, J.

DATE : 8th OCTOBER, 2018

P.C.

By this petition filed under Article 227 of the Constitution of India, the petitioner (original defendant no.1) has impugned the order dated 5th March,2018 rejecting the application (Ex.289) *inter alia* praying for recalling himself for proving the rent receipts purported to have been issued between the period January 2001 to December 2013 and the cash vouchers. The said application was opposed by the plaintiff.

2. With the assistance of the learned counsel for the parties, I have perused the averments made in the plaint and also in the written statement. In the written statement filed by the petitioner, it was not the case of the petitioner that the petitioner was a tenant in respect of the suit premises or was paying any rent in respect thereof to any party.

3. The evidence of both the parties are concluded.

4. The petitioner (defendant no.1) filed an application on 5th December, 2017 *inter alia* praying for recall himself to prove the documents.

5. The learned trial judge has considered the said application and the submissions made by both the parties and has held that the petitioner has not even produced any evidence to show as to when he received the alleged rent receipt from January 2001 to December 2013 and cash vouchers acknowledging the receipt of the said amount.

6. Mr.Haridas, learned counsel appearing for the petitioner fairly stated that no documents had been produced by his client to show that the alleged rent receipts between January 2001 and December 2013 and cash vouchers were received by his client from the alleged landlord on 16th July, 2017 and not prior thereto. I do not find any infirmity in the impugned order passed by the learned trial judge. I am thus not inclined to interfere with the impugned order dated 5th March,2018.

7. The petitioner did not show any due diligence to produce these documents for a long period.

8. Writ petition is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

[R.D. DHANUKA, J.]