IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4758 OF 2018
(Moh.Mohsin Khan Asif Khan Vs. Rajendra Radhakisan Jakhete)

Mr.V.B.Patil, learned Advocate for the petitioner.
Mr.M.R.Malpani h/f Mr.A.B.Kale, learned Advocate for respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 05/02/2019

PER COURT :

1. I have heard the learned Advocates for the petitioner and the respondent.

2. Grievance of the petitioner/plaintiff is that the Trial Court has rejected application Exh.96 filed by him in Spl.Civil Suit No.62/2014, vide the impugned order dated 11/12/2017. The petitioner had sought a direction that the defendant should produce his income tax returns for the accounting year 01/04/2009 to 31/03/2010, 01/04/2010 to 31/03/2011 and 01/04/2011 to 31/03/2012. He desired to establish the payment of Rs.32,00,000/- that he has made to the respondent and that is not a part of any business transaction. The case of the petitioner/plaintiff is that it was a hand loan. The defendant has come forward with a case that the payment was on account of a business transaction.

3. The Trial Court has concluded that the payment of Rs.32,00,000/- by the plaintiff to the defendant in the month of January 2010 has been proved by oral and documentary evidence as the said payment was made by cheque and the bank statement Exh.48 proves the said payment.

4. I find from the pleadings of the defendant that he claims that the said payments have been made, not by way of a hand loan, but on account of their partnership business. It requires no debate that the party which pleads a specific case has to prove the said pleadings. The defendant, therefore, will have to establish his case based on his pleadings.

5. In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)