

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

WRIT PETITION NO. 2432 OF 2019

**RATILAL SHANKAR SHIMPI THROUGH GPA
VERSUS
ASHOK SHANKAR SHIMPI AND OTHERS**

...

Advocate for the Petitioner : Shri P. S. Dighe
Advocate for Respondent Nos. 1, 3 and 8 : Shri Vinesh Solshe
h/f. Shri Mahesh H. Patil

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 16th SEPTEMBER, 2019.

...

ORAL ORDER :

1. Leave to delete respondent Nos. 9 to 11 is granted at the risk of the petitioner. Deletion be carried out forthwith.

2. I have heard the learned Advocate for the petitioner who has strenuously canvassed the grounds raised in this petition and the learned Advocate on behalf of the appearing parties. Some of the respondents have not caused an appearance despite service of Court notice.

3. The petitioner / original defendant No.1 who appears in person before the Trial Court in Special Civil Suit No.

184/2007 and has cross-examined the plaintiff through an advocate, is aggrieved by the order dated 02/08/2018 passed by the Trial Court, by which, application Exhibit 191 is allowed and the plaintiff is recalled for cross-examination to the extent of the documents in Civil M.A. No. 126/2000.

4. The issue raised by the petitioner is as regards opportunity to cross-examine the plaintiff. The record reveals that the plaintiff concluded his examination-in-chief by his affidavit in lieu thereof dated 16/01/2017. The petitioner commenced the cross examination after six months on 10/07/2017. The cross-examination continued till 06/09/2017 and the petitioner closed the cross-examination on that date.

5. Application Exhibit 191 was filed on 29/06/2018, in view of the leave granted by this Court (Coram : V. L. Achaliya – J.) in Writ Petition No. 3323/2018. Vide Exhibit 191, the petitioner specifically prayed in paragraph 3 that he desires to produce the record and proceedings in Misc. C.A. No. 126/2000. It is on such a request that the Trial Court has passed the impugned order permitting the petitioner to file

certified copies of the documents in CMA No. 126/2000 and by permitting the recalling of the plaintiff, liberty is granted to further cross-examine plaintiff No.1 to the extent of CMA No. 126/2000.

6. I find from the record that the petitioner has extensively cross-examined plaintiff No.1 over 17 pages. Such cross-examination was conducted over a period of two months. Despite such a lengthy cross-examination, the petitioner made allegations against the Trial Court and also moved an application for seeking transfer of the proceedings to another Court. That application was rejected. Subsequently the learned Presiding Officer was transferred in due course.

7. Notwithstanding the strenuous submissions of the learned Advocate for the petitioner, I find that a sufficient opportunity was granted to the petitioner to cross-examine plaintiff No.1. After such a length cross-examination, the petitioner desires to produce the record of an earlier proceeding and the Trial Court permitted such production through certified copies and as directed the petitioner to cross-

examine plaintiff No.1 to the extent of the said documents from the earlier proceedings.

8. I do not find that such a direction in any way would curtail the liberty of the petitioner in cross-examining plaintiff No.1. The Trial Court realized that the petitioner was unnecessarily enlarging the cross-examination and therefore certain restrictions have been imposed. The impugned order does not appear to be perverse or erroneous and this petition is, therefore, dismissed. Needless to state, on the date plaintiff No.1 is present in the Court for cross-examination, the petitioner would cross-examine him only to the extent of the documents pertaining to CMA No. 126/2000 that would be produced in Court.

9. Considering the request of the plaintiff coupled with the fact that plaintiff No. 1 is the last witness on behalf of the plaintiff and there are 11 defendants, the Trial Court would endeavour to decide RCS No. 184/2007 as expeditiously as possible and preferably on or before 30/09/2020.

10. Before parting with this petition, I find it necessary to take cognizance of the conduct of the petitioner. He is said to be the power of attorney holder for his father. The record reveals that every now and then, he was making allegations against the learned Judge (Coram : Smt. Mangala A Mote), who was dealing with Special Civil Suit No. 184/2007. Even in application Exhibit 191, an undesirable language has been used. This conduct of attempting to browbeat and terrorize a Judge, cannot be countenanced, more so when the same learned Judge had granted two months of time to the petitioner to cross-examine plaintiff No.1 and that too after seven months of adjournment before commencing the cross-examination.

11. On account of this conduct, the petitioner Shri Ratilal Shankar Shimpi through his GPA Kamlesh Ratilal Bhandarkar (Shimpi) shall now be precluded from appearing in person or GPA before the Trial Court. Since he has conducted the cross-examination of plaintiff No. 1 through an Advocate representing him, he would be at liberty to contest the matter through an Advocate.

12. So also, Shri Kamleh Ratilal Bhandarkar (Shimpi) shall submit a written apology before the Trial Court addressed to the earlier learned Judge Smt. Mangala A. Mote and shall tender an unconditional apology on or before 30/09/2019, failing which, the defence of the petitioner shall be struck off. He is further cautioned that he shall not indulge in such activities and shall not attempt to browbeat the Judges.

13. The learned Registrar (Judicial) of this Court shall circulate a copy of this judgment to the learned Judges in the District Judiciary.

(RAVINDRA V. GHUGE, J.)

shp/-