

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3131 OF 2018

(Yuvraj s/o Vijay Shinde Vs. Vijay s/o Prabhakar Shinde and others)

Mr.R.R.Karpe h/f Mr.Y.D.Kale, Advocate for the petitioner.

Mr.S.D.Tawshikar, Advocate for respondent Nos. 2 and 3.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 18/03/2019

PER COURT :

1. On 27/03/2018, I had passed the following order and had granted ad-interim relief to the petitioner :-

"1. The petitioner/defendant No.3 in Special Civil Suit No.02/2013, is aggrieved by the order dated 02/01/2018, by which, application Exhibit 91 praying for recalling of the 'No WS' order and leave to file the written statement has been rejected with costs.

2. The petitioner appeared in the Special Civil Suit in January 2013, and the 'No WS' order was passed on 19/03/2013. Exhibit 91 was filed on 24/10/2017, which is after about four years and six months. The Trial Court has rejected the application on the ground that this defendant was sleeping over the matter. The petitioner contends that he was a student at the relevant time. He was staying at a different place for taking education.

3. Considering the above and keeping in view that this

defendant is likely to lose a valuable right of participating in the pending proceedings, I find that this petition can be entertained by imposing costs.

4. Issue notice to the respondents, returnable on 06/06/2018. On the condition that the petitioner would deposit an amount of Rs.10,000/- before the Trial Court on/or before 25/04/2018, the Trial Court would adjourn Special Civil Suit No.02/2013, beyond the returnable date in this matter. If the said amount is not deposited, the Trial Court would proceed with the suit from 26/04/2018.

5. Copies of the petition paper book shall be supplied for issuance of notice on/or before 10/04/2018, failing which this petition would stand dismissed without reference to the Court on 11/04/2018."

2. Learned Advocate for respondent Nos. 2 and 3 points out that the petitioner has misled this Court by stating that he is a student, when he was a businessman.

3. Learned Advocate for the petitioner submits on instructions that the petitioner desires to withdraw this petition. Learned Advocate for respondent Nos. 2 and 3 submits that he was dragged into litigation. He desires to donate 50% of the amount deposited in this Court to the Advocate Associations' Bar Library, High Court, Aurangabad and the rest of the amount be donated for the treatment

of poor patients with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of “**Dean, Government Medical College and Hospital, Aurangabad Dengi Samiti**”).

4. Considering the peculiar facts as above, and without going into the allegation of the petitioner misleading this Court, this petition is disposed off, as withdrawn.

5. The Nazar Department shall transfer half of the amount, inclusive of interest, to the Advocate Associations' Bar Library, High Court, Aurangabad and the rest of the amount shall be transferred with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of “**Dean, Government Medical College and Hospital, Aurangabad Dengi Samiti**”) for the treatment of poor patients.

(Ravindra V.Ghuge, J.)

