

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1976 OF 2018

Shri. Arun Baburao Thorat

... **Petitioner**

V/s.

Dilipkumar Mahadeo Thorat

... **Respondent**

Mr. Sameer Kumbhakoni for the Petitioner.

None for the Respondent.

CORAM : M.S.SONAK, J.
DATE : 15TH APRIL, 2019

P.C.:

1. Heard Mr. Kumbhakoni learned Counsel for the Petitioner.
2. Challenge in this petition is to order dated 12.09.2017 made by the learned Trial Judge.
3. Mr. Kumbhakoni submits that the reasoning is contained in paragraph 5 of the impugned order. He submits that the learned Trial Judge has granted an opportunity to the Plaintiff to seek redressal at the appropriate stage which infact such opportunity should have to be granted to the Petitioner/defendant.
4. Paragraph 5 of the impugned order reads thus:

"5. Proceeding is in midst of evidence. The Plaintiff has concluded his evidence and matter is pending for evidence of defendant. The defendant has testified at Exh.68. At this stage with instant application defendant seeks comparison of signature allegedly made by Plaintiff on photo copy of documents filed on record. Defendant has

*specifically denied the signature on alleged documents. In these circumstances at this stage the application and prayer of the defendant is not tenable. The aspect of comparison of signature and handwriting of defendant on alleged documents is concerned, **plaintiff** can seek redressal in this regard at appropriate stage. Hence, the order.*"

5. From the aforesaid, it is very obvious that the learned Trial Judge has by mistake referred to "Plaintiff" in the second last line of the paragraph 5 instead of reference to "Defendant". This, appears to be inadvertent error and should have applied for correction under Section 152 of the CPC, rather than instituting the present petition.
6. In any case, the learned Trial Judge, is directed to make the necessary correction by substituting the word "**Plaintiff**" with the word "**Defendant**" in the impugned order dated 12.09.2017.
7. The aforesaid redresses the grievance of the Petitioner in this petition.
8. The Petition is accordingly, disposed of with the aforesaid terms.
9. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)