

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition (ST) NO. 7774 OF 2019

Shri. Atul Subhash Bhalerao

...Petitioner

Versus

Madhusudan Pandurang Shelukar

And others

...Respondents

....

Mr. Girish R. Agrawal, Advocate for the Petitioner.

....

CORAM : R. G. KETKAR, J.

DATE : 15th MARCH, 2019

P.C.

1. Not on board. At the request of Mr.Agrawal taken up for admission.
2. Heard Mr. Girish Agrawal, learned counsel for the petitioner, at length.
3. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as 'defendant No.3A', has challenged the order dated 27.2.2019 passed by the learned Civil Judge, Senior Division, Nashik below Exhibit-342 in Special Civil Suit No.916/1997. By that order, the learned trial Judge rejected the application made by defendant No.3A for setting aside the exparte order.
4. With the assistance of Mr. Agrawal, I have perused the application Exhibit-342 filed by defendant No.3A before the trial Court.

A perusal of that application clearly shows that in a very casual manner defendant No.3A has filed application without even mentioning the date when the exparte order was passed against him. Even the application is not supported by an affidavit.

5. As the application Exhibit-342 is filed in a most casual manner, I decline to exercise the powers under Article 227 of the Constitution of India. At this stage, Mr. Agrawal submits that he may be permitted to withdraw this Petition with liberty to file fresh application giving all necessary details. Mr. Agrawal states that within one week from today, defendant No.3A will file application giving all necessary details before the trial Court.

6. In view thereof, on the motion made by Mr. Agrawal, the Petition is allowed to be withdrawn with liberty as prayed for and is disposed of as such. If the petitioner files application for setting aside exparte order giving necessary details within one week from today, the learned trial Judge will decide the same uninfluenced by the observations made in the impugned order and this order. Order accordingly.

(R. G. KETKAR, J.)