

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6787 OF 2014

Shri Ramashankar Ramdeo Pandey

.... Petitioner.

Versus

Shri Aderbad Khodadad Irani

.... Respondent

Mr. Awadhesh R. Pandey for the Petitioner
None for the Respondent.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 27th SEPTEMBER, 2019

P.C.:

Initially the respondent, as the plaintiff, wanted to inspect one of the documents on which the defendant has relied. The trial Court directed the petitioner-defendant to bring the ration card from his native place and produce it in the Court. It was for the plaintiff's inspection. Evidently, that direction was not complied with. Then the plaintiff has applied to have the defendant's defence struck off—for non-compliance. After hearing both the

parties, on 7th May 2014, the trial Court struck off the defence. Aggrieved, the defendant has filed this petition. In this Writ Petition, as the record reveals, the plaintiff-respondent has appeared in-person.

2. On the last occasion, the petitioner's counsel informed the Court that, pending this Writ Petition, Hon'ble Shri Justice Tated orally directed the defendant's counsel to ensure the production of the document for the plaintiff's inspection. According to him, that direction was complied with.

3. In this context, the learned Counsel has also produced a letter, dated 17th December 2014, said to be an acknowledgment by the plaintiff. So he wanted this Court to allow this Writ Petition. That is, he wanted the Court to set aside the impugned order, through which the defendant's defence struck off.

4. As the respondent was unavailable on the last occasion, I had this matter posted for today. Today, too, he has not appeared.

5. Under these circumstances, going by the submissions advanced by the petitioner's counsel, I hold that the latches on the petitioner's part stand cured because, for pending this Writ Petition he is said to have produced the documents for the respondent's inspection.

6. Under these circumstances, I set aside the impugned order dated 7th May 2014 and restore the petitioner's defence in the pending suit.

The letter dated 17th December 2013 is taken on record and marked "X" and the Writ Petition stands disposed of.

(DAMA SESHADRI NAIDU, J.)