

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10063 OF 2019

Shri Bharat Dhondiram Patil	.. Petitioner
Vs.	
Shri Santosh Dhondiram Patil and ors.	.. Respondents

Mr.Dnyaneshwar W. Bhosale, for the Petitioner.
None for the Respondents.

CORAM : M.S.KARNIK, J.

DATE : 04th OCTOBER, 2019

P.C. :

. Heard learned Counsel for the petitioner.

2. Learned Counsel for the petitioner has filed affidavit of service in terms of order dated 16/09/2019 passed by this Court. None appears for respondents despite service of notice.

3. The petitioner is the original claimant. The petitioner suffered with an accident in which he lost his one eye

and suffered head injuries as well. Before MACT, the evidence was recorded and ultimately the petitioner - claimant closed his evidence on 29/06/2019. On the very same day application was made at 5.30 p.m. by claimant for setting aside the order. In the application it is stated that he wants to examine Doctor who treated the claimant after the accident. When the application Exhibit 41 was heard, the same was rejected for non compliance. The claimant therefore made another application Exhibit 42 for issuing witness summons to C.M.O., Ashwini Hospital, Solapur or to appoint Commissioner to record his evidence. Considering the conduct of the claimant in dealing the claim petition and even on the date when the application Exhibit 42 was listed for consideration, the claimant and his Advocate were not present, therefore application Exhibit 42 came to be rejected.

4. From the order passed by the trial Court it appears that the claimant is not very diligent in proceeding with the matter. However, in the impugned order, it has been observed

by the Tribunal that proposed witness may be important for the claimant but the progress of the claim petition will reveal that claimant has taken the court procedure for granted. I do not find these observations made by the Tribunal to be unwarranted. However, as this is a claim petition and as claimant has suffered injury and lost his eye, to enable the claimant to get a fair and just compensation, I am inclined to take a lenient view by imposing some cost on the claimant. Further it would be necessary to obtain undertaking from the claimant that he would co-operate with the Tribunal in deciding the claim petition expeditiously. None has appeared on behalf of the respondents though they are duly served.

5. In this view of the matter, in the interest of justice, impugned order is set aside. Learned Counsel for the petitioner on instructions of the claimant undertakes that he will co-operate with the Tribunal and will not seek unnecessary adjournment and henceforth will be diligent in proceeding with the matter. The present Petition is allowed in terms of prayer

clause (b) subject to payment of cost of Rs.500/-. Cost to be paid to Kirtikar Law Library within a period of 2 weeks from today.

(M.S.KARNIK, J.)

Urmila
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by Urmila P.
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