

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.881 OF 2018

Anil Ganeshlal Agrawal
vs
Kamalkishor S/o Sitaram Agrawal and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri P.K.Mohta, Advocate for petitioner.
Shri A.S.Mehadia, Advocate for respondent no.4.
None for other respondents though served.

CORAM : A.S.CHANDURKAR, J.
DATED : June 21, 2019

Heard learned counsel for the parties.

The challenge in the present writ petition is to the orders passed by the trial Court below Exhibits 91 and 92. By the order passed below Exhibit 91 the defendant no.4 has been directed to cross-examine the plaintiff subject to deposit of costs of Rs.1,000/-. By the order passed below Exhibit 92 the defendant no.6 has been permitted to cross-examine the witness-Gajanan Mahadeo Dipake after depositing costs of Rs.300/-.

It is submitted on behalf of the petitioner who is the original plaintiff that both the applications have been allowed without sufficient cause being shown in that regard. It is submitted that the said defendants were aware about the progress of the suit and only by way of an afterthought, the aforesaid applications came to be moved. The trial Court erred in exercising discretion and allowing

those applications.

The order is supported by learned counsel for the respondent no.4. He submits that the plaintiff has accepted costs pursuant to the order passed below Exhibit 91. According to him both the orders permit participation of the defendant nos. 4 and 6 in the proceedings and hence they do not deserve to be interfered with.

On hearing learned counsel for the parties and on perusing the impugned order, it is seen that the trial Court has after noting the conduct of the proceedings found fit to permit cross-examination of the plaintiff by the defendant no.4 by imposing costs. Similar order has been passed at the instance of defendant no.6.

Considering the reasons assigned in the orders coupled with the fact that the discretion has been exercised after imposing costs, I am not inclined to interfere in writ jurisdiction. The interests of the plaintiff can be taken care of by expediting the proceedings.

Accordingly without interfering with the impugned orders, the proceedings in Special Civil Suit No.95/2005 are expedited. The trial Court shall take steps to decide the suit by the end of April 2020. The suit be decided on its own merits and in accordance with law. The writ petition is dismissed with no orders as to costs.

JUDGE