

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6806 OF 2021

Suresh Sunder Kamble .. Petitioner

Vs.

Subhash Sunder Kamble & Ors. .. Respondents

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Mr. Abhishek L. Tripathi for the petitioner.

Mr. S.K. Dubey for respondent No.1.

Ms. Dhruvika B. i/b M/s. Legal Vision for respondent No.4.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 25TH OCTOBER, 2021.

P.C:-

1. The petitioner before this court is aggrieved by an innocuous order passed by learned Judge of the Bombay City Civil Court in S.C. Suit No.2213 of 2018.

2. On 19/03/2021, when the plaintiff without seeking leave of the court tendered an affidavit of evidence of PW-1, the learned Judge passed an order stating that on an earlier occasion,

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plaintiff has filed pursis that they will not lead the evidence in contempt notice of motion. In spite of the same, the plaintiff, without seeking the leave of the court, tendered the affidavit of evidence and this was recorded to be an attempt to mislead the court. What the court, therefore, observed was that in the absence of the permission to lead the evidence, the evidence of the plaintiff for contempt cannot be considered.

3. The course available to the petitioner is to seek leave of the court to tender the affidavit evidence, which for reasons better known to the plaintiff, is not followed. The impugned order calls for no interference. Needless to state that the petitioner is at liberty to take out an application seeking leave of the court and it is for the learned Judge to permit such an affidavit being tendered in spite of the pursis being filed.

4. The writ petition is disposed of.

[SMT. BHARATI DANGRE, J.]