

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 184 of 2021
WITH
INTERIM APPLICATION NO.2725 of 2021
IN
CIVIL REVISION APPLICATION NO.184 OF 2021

Bansidhar Ambaji Bhakad .. Applicant
Versus
Ismail Yusuf College .. Respondent

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Mr. A.K. Tripathi with D.R. Mishra for the applicant.
Mr.Y..Y.Dabake, AGP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 27th OCTOBER 2021.

P.C:-

1 The applicant is aggrieved by an order passed below Exhibit-30 on an application preferred by the plaintiff seeking issuance of warrant against the addressee of the letter of request for the purpose of compliance of the letter of request.

2 The backdrop in which the relief is sought is to the effect that the plaintiff was appointed as a lecturer in Physics with the first defendant by the second defendant and the appointment was a temporary appointment. Thereafter, he was selected by the Maharashtra Public Service Commission (MPSC) for being appointed as a lecturer in physics on regular basis in the Junior College of first defendant and the appointment, according to him,

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was permanent appointment on gazetted Class-II post. However, he had to suffer the brunt of a decision delivered by the High Court, resultantly, his services were terminated by order dated 1st December 2013. He, therefore, instituted a Suit challenging the action of the defendants as illegal and claimed damages against the defendants.

3 Chamber Summons was taken out by the defendants for referring to and relying upon by the order passed by the Court in Writ Petition No.1355 of 1999 as well as the orders passed in Original Application (OA) No.531 of 1992 by the Maharashtra Administrative Tribunal. It was sought to be contended that in the said OA, the plaintiff was shown as applicant no.7 and the contention advanced was that the applicants in the said OA including the present plaintiff had filed a Special Leave Petition in the Apex Court in which he was shown as appellant no.16. The defendant sought to rely upon the said proceedings as well as the order passed in the proceedings including the order dated 25th August 1992. The amendment sought by the defendant in form of reliance upon the said proceedings was allowed and the plaintiff was given an opportunity to have inspection of the relevant documents and if the inspection was denied, he was permitted to take appropriate proceedings.

From the date this order is passed, the planitiff is repeatedly seeking production of the proceedings before the

Maharashtra Administrative Tribunal and before the Supreme Court.

4 The plaintiff has taken various steps to bring these documents on record and on an earlier occasion, a letter of request was forwarded through the Registrar, City Civil Court, Mumbai to the Registrar, Maharashtra Administrative Tribunal on 3rd March 2021 requesting for the said documents as per the Application filed by the plaintiff vide Exhibit-27. However, there was no response. This compelled the plaintiff to move an Application under Order XVI Rule 6 and 10 of the Code of Civil Procedure, on which the impugned order has been passed by the learned Judge on 20th September 2021. The Court has recorded that it is not possible to compel the valuable witnesses like the Registrar of the Supreme Court or Maharashtra Administrative Tribunal to attend the Court but this issue can be resolved by producing the relevant documents instead of compelling the witnesses to attend the Court. Therefore, the application preferred by the plaintiff vide Exhibit-30 is rejected.

5 The plaintiff is aggrieved by the said order. I have narrated the background why the plaintiff insisted upon the documents to be produced, since the amendment was allowed in his favour of the defendant.

6 The plaintiff is interested in the documents being brought in the Suit in the aforesaid background. Order XVI Rule 6 contain the provisions for issuance of summons to produce documents It reads thus :

“By invoking the said provision, the applicant can seek issuance of summons to the concerned person for production of documents and it is not necessary that he shall remain present before the Court for giving evidence or even production of evidence and even if by any mode, the documents are brought on record, that would be sufficient compliance of the summons”

7 The learned Judge who has outrightly rejected the said application on the premise that the valuable witnesses like the Registrar of the Supreme Court and the Administrative Tribunal cannot be compelled to attend the Court. That is not the purport of summons to be issued under Order XVI Rule 6.

I am unable to concur with the said order but nonetheless the application preferred by the plaintiff was vague and it sought their presence of witnesses under Order XVI Rule 6.

In such circumstances, reserving the liberty to the plaintiff to take out the application under Order XVI Rule 6 before the learned Judge specifically seeking issuance of summons limited to production of documents, the present Civil Revision Application is dismissed by upholding the order.

If such an application is preferred by the plaintiff, it shall be decided expeditiously.

8 In view of the dismissal of Civil Revision Application, Interim Application No.2725/21 does not survive and is disposed of accordingly.

SMT. BHARATI DANGRE, J