

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

Writ Petition No. 290 of 2021

Raviraj Yuvraj More Vs. Shashikant Bajrang Agrawal

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Ayush Sharma, Advocate for the petitioner
Mr. V.B. Bhise, Advocate for the respondent

CORAM : MANISH PITALE, J.

DATED : AUGUST 20, 2021

The defendant is the petitioner before this Court and he is aggrieved by the orders passed by the Court below passed on various dates, whereby the right of the defendant to cross-examine the witnesses of the plaintiff has been taken away by a direction of “no cross”. The orders dated 07/12/2019 and 20/01/2020, were passed about “no cross” in respect of two witnesses of the plaintiff. In this context, the petitioner filed two applications at Exhs.27 and 28 for setting aside the said orders and for opportunity to cross-examine the witnesses. By order dated 11/02/2020, the said applications were rejected. Thereafter, the petitioner filed another application for recalling the order dated 11/02/2020, which was rejected by an order dated 18/02/2020. All the orders dated 07/12/2019, 20/01/2020, 11/02/2020 and 18/02/2020, are made subject matter of challenge in the present Writ Petition.

2. The endeavour of the petitioner is to convince this Court that if opportunity is granted to cross-examine the witnesses, the matter could be decided on merits, otherwise the petitioner is likely to suffer prejudice.

3. The respondent through counsel has vehemently opposed the prayer made in the present Writ Petition. It is submitted that it is due to the negligent and recalcitrant approach of the petitioner that the impugned order was passed and that no error can be attributed in the Court below while passing the impugned order.

4. This Court has perused the impugned order. It appears that the petitioner and his counsel were at fault when the impugned orders were passed and, therefore, there does not appear to be any apparent error in the approach adopted by the Court below. Yet, in exercise of writ jurisdiction and in the interest of justice, this Court is of the opinion that one last opportunity can be granted to the petitioner to cross-examine the witnesses of the respondent.

5. This Court is informed that the suit is listed before the Court below on 08/09/2021.

6. In view of the above, the impugned orders are set aside and the petitioner without fail, shall commence the cross-examination of all the witnesses of the respondent from 08/09/2021, when the suit is now listed before the Court below. The said Court shall proceed expeditiously in the matter and in any case complete the proceedings and render judgment on or before 30/11/2021.

JUDGE

MP Deshpande