

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

45 WRIT PETITION NO.11798 OF 2022

SANJAY ALIAS KULBHUSHAN SHIVNARAYAN JAISWAL
VERSUS
SANJAY SHANKARLAL MAKARIYE AND OTHERS

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Advocate for Petitioner : Patil Milind Madhukar

CORAM : SANDEEP V. MARNE, J.
DATE : 28th NOVEMBER, 2022

PER COURT :

1. By this petition, petitioner challenges order dated 22nd September, 2022 passed on application at Exh. 1, and order dated 5th November, 2022 passed on application below Exh.88 in R.C.S. No. 840/2014 by 4th Jt. Civil Judge Senior Division, Aurangabad.

2. By order dated 22.09.2022, the trial court directed the plaintiff to prove documents at Exh.66, 74 and 79. Plaintiff filed two applications at Exh.88 and 89. The application at Exh.88 was filed to seek review of the order dated 22nd September, 2022. Simultaneously petitioner filed application at Exh.89 for withholding the cross-examination of the plaintiff till examination of the rest of the witnesses. Thus, on one hand, petitioner is trying his luck to get order dated 22.09.2022 reviewed so as to avoid examination of any of the witnesses to prove the documents at Exh. 66, 74 and 79 and he simultaneously filed application at Exh. 88 for stalling his own cross-examination till the other witnesses required for examining those documents. This conduct of petitioner in my view, is gross abuse of process of law. The plaintiff cannot seek to question the order of the trial

Court directing him to prove the documents and file an application praying examination of the witnesses to prove those documents before completion of his cross-examination. In fact, by filing application at Exh. 88, the plaintiff acquiesced in the order dated 22.09.2022. Such contradictory stand taken by petitioner has delayed, the trial of the suit which appears to be expedited by order dated 30th March, 2022 passed in Writ Petition No. 188/2022.

3. The petition is thus, gross abuse of process of law. The same is dismissed without any order as to costs.

[SANDEEP V. MARNE, J.]

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