

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2013 OF 2022

Gayatri Madhukar Musale

.. Petitioner

Versus

Jyotirling Traders

.. Respondent

-
- Mr. Nikhil N. Pawar for Petitioner
 - None for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 07, 2022

P.C.:

1. Heard Mr. Pawar, learned Advocate for Petitioner. None appears for the Respondent, though duly served.

2. Perused the impugned order dated 12.02.2021 passed below Exh. 12 by the learned Civil Judge Junior Division, Ichalkaranji in Summary Suit No. 121 of 2019.

3. Record indicates that Respondent has been duly served.

4. Perusal of paragraph 6 of the impugned order records that Respondent had returned the money borrowed from the Petitioner to her brother. Save and except this singular statement, there is no other material called for by the learned Trial Court either in support of the said statement made by the Respondent in his reply or to corroborate the same as to how and when was the said amount returned to her brother.

5. I have perused the say filed below Exh. 12 of the Respondent which merely mentions in one sentence states that the amount has been returned back to the brother of Petitioner. No details whatsoever have either been stated in the say below Exh. 12 nor the Trial Court has deemed it fit to direct the Respondent to place any material on record so as to come to the *prima facie* conclusion that the amount has indeed been returned by the Respondent to Petitioner's brother. No reasons whatsoever have been given by the Trial Court. The impugned order is passed without complete non-application of mind by the learned Trial Court and deserves to be interfered with.

6. In view of the above, the impugned order dated 12.02.2021 is quashed and set aside.

7. Writ Petition is allowed in the above terms.

[MILIND N. JADHAV, J.]

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