

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

Writ Petition No. 2176 of 2022

[Ranjeetsingh JangbahadurSingh Pawar ..vs.. Sanjay Varadmal Thawarani]

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

Court's or Judge's orders

Mr. A. H. Mishra, Advocate for the petitioner
Mr. S. A. Mohta, Advocate for respondent

CORAM : ROHIT B. DEO, J.

DATED : 22-4-2022

The short grievance of the petitioner – defendant is that vide order dated 6-4-2022, the application preferred seeking recalling/setting aside of the order dated 4-4-2022 below Exhibit 1 is rejected.

2. Application, Exhibit 116 was preferred since the trial Court passed an order below Exhibit 1 closing the evidence of the defendant. It appears that the evidence was closed since the summons which was issued to the witness, Mr. S. G. Dhande on 14-3-2022 was returned unserved and the subsequent summons which was issued on 25-3-2022 on the new address of the witness was not served and at any rate, the report of service was not received.

3. In my considered view, the trial Judge fell in error in directing closure of the evidence. However, I am not

inclined to delve deeper since in response to a query in respect of evidence of Mr. Dhande, it has transpired that the defendant intends to bring on record available with the bank and any serving officer or staff can be summoned since Mr. S. V. Dhande has superannuated. At the same time, the apprehension of the plaintiff that the defendant is intending to delay the proceedings shall have to be addressed particularly since learned counsel for the plaintiff, Mr. Mohta points out that the case is fixed for final argument on 25-4-2022.

4. The order impugned is set aside.

5. The parties shall appear before the trial Court on 25-4-2022. The defendant shall apply for issuance of witness summons to witness of the bank presently serving at the concerned branch of the bank and shall serve the said witness, if necessary, by taking a special bailiff. The witness shall be examined and the evidence shall be closed on or before 6-5-2022.

6. The arguments shall be heard and the decision shall be rendered in the suit within two weeks from the date of opening of the Court after Vacations.

7. The petition is disposed of in the aforestated terms.

JUDGE

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