

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3065 OF 2023

Ashok Hariram Jatal

...Petitioner

Versus

Vithal Arjun Panchal And Others

...Respondents

Ms. Anjali Dube (Bajpai), Advocate for the petitioner.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 16th MARCH, 2023

ORDER :

1. By this petition filed under Article 227 of the Constitution of India, petitioner challenges order passed by learned 2nd Joint Civil Judge, Senior Division, Latur, below Exhibit-163 in Regular Civil Suit No. 601/2007, thereby rejecting the application filed by defendant No. 1 under Order 26 Rule 9 and under section 75(B) of CPC.

2. During the course of hearing, the learned advocate for the petitioner submits that the application was infact under Sub Rule 2 of Rule 12 of Order 26 of CPC. However, no such pleadings and prayers in terms of Sub Rule 2 of Rule 12 of Order 26 are found in the application. Learned advocate for the

petitioner would urge that the gist of the application shows that the application is filed under the said provision. It is not possible to accept the said submission in view of the pleadings and prayers in the said application. In this view of the matter, this Court is not inclined to interfere in the order impugned in the present petition, at this stage. The writ petition being devoid of merit is dismissed. However, liberty is granted to the petitioner to file application by taking appropriate pleadings under Sub Rule 2 of Rule 12 of Order 26 of CPC. If such application is filed, the same shall be considered by the Trial Court on its own merits without being influence by the order passed by this Court or by the order impugned in the present petition.

[NITIN B. SURYAWANSHI, J.]