

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3588 OF 2023

Aleem Hamid DeshmukhPetitioner
Versus
Pramila Chandrakant Ahire
and another Respondents

Mr. Pramod N. Joshi, Advocate for the Petitioner.

CORAM : SARANG V. KOTWAL, J.

DATE : 30th MARCH, 2023

P.C. :

1. The Petitioner has challenged the order dated 6.3.2023 passed by the learned Principal District Judge, Nashik in Civil Misc. Application No.10/2023. By the impugned order, the learned Principal District Judge had refused to transfer Regular Civil Appeal No.623/2016 from the file of the District Judge-5, Nashik to some other learned Judge. The application preferred by the Petitioner was dismissed with costs of Rs.3,000/- payable to the Respondent No.1 therein.

2. Heard Shri Pramod Joshi, learned counsel for the Petitioner.

3. The Respondent No.1 herein was the original Plaintiff and the Petitioner was the Original Defendant No.1 in Special Civil Suit No.512/2007 before the Civil Judge, Senior Division, Nashik. It was decreed on 7.4.2011. Thereafter, an appeal was preferred initially before this Court, but, because of change in pecuniary jurisdiction, the appeal was transferred back to the District Court and it was pending as Regular Civil Appeal No.623/2016 before learned District Judge-5, Nashik for disposal according to law. The appeal was fully heard and it was pending for passing of the order. In the meantime, it is contention of the Petitioner that the Respondent No.1 had forcibly taken possession of the suit property. The Petitioner approached the same learned Judge with an application for contempt of the Court order. That application was rejected immediately and, therefore, the Petitioner entertained an apprehension that he would not get justice from the same learned Judge. He preferred

Civil Misc. Application No.10/2023 before the Principal District Judge, Nashik for transferring that appeal from the District Judge-5 to some other Judge. This application was rejected by the impugned order.

4. Learned counsel for the Petitioner submitted that since the application in the nature of contempt proceedings pointing out forcible possession having been taken by the original Plaintiff was decided by the same learned Judge hurriedly without giving proper opportunity to the Petitioner, that gave rise to a reasonable apprehension in the mind of the Petitioner regarding the final outcome of his appeal.

5. I have considered these submissions and I have perused the impugned order passed by the Principal District Judge, Nashik. I find that the reasoning given by the Principal District Judge is sound. He has observed that passing order of transfer of a case from one judge to another is a serious issue and it unnecessarily casts doubt on the integrity of learned Judge. The appeal was fully heard and only it was kept for passing of the order. In the meantime, if

there was any fresh cause of action, it would not affect passing of the order. The apprehension entertained by the Petitioner is not reasonable. In any case, no concrete grounds are made out casting doubt on the integrity and unbiased attitude of learned Judge who has heard the appeal. In this view of the matter, I am not inclined to interfere with the impugned order and also not inclined to direct transfer of that appeal to another Court.

6. In view of this discussion, the Petition is dismissed.

(SARANG V. KOTWAL, J.)

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