

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 8307 OF 2019

Prashant Krushnaji Avthare __ Vs. __ Triveni Krushnaji Avathare and ors

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

Court's or Judge's orders

Mr. S.M.Prasad, Advocate for petitioner
Mr. M.P.Kariya, Advocate for respondent No.1.

CORAM : AVINASH G. GHAROTE, J.
DATE : 20/02/2023

1] Heard Mr. Prasad, learned counsel for the petitioner and Mr. Kariya, learned counsel for the respondent.

2] The petition challenges the order dated 4.10.2019 passed below below Exh.21 by which the application under Order 41 Rule 27(1)(b) of the CPC has been rejected by the learned Appellate Court.

3] It is contended that the documents in question which relates to the educational qualification of the petitioner indicating that he had taking education at Pulgaon were vital for the purpose of deciding the lis and therefore ought to have been allowed. Though the application is styled under Order 41 Rule 27(1)(b), what is in fact pressed into service is Order 47 Rule 27 (aa) of the CPC.

4] The suit in question was filed in the year 2007. The material which is now stated to be relevant was all throughout within the knowledge and custody of the petitioner. Though an argument is raised that the documents were handed over to the counsel, who had failed to place them on record, nothing is brought on record about any attempt to bring those documents on record before the Trial Court, though belatedly. Since the petitioner even before filing of the suit was in the knowledge and possession of those documents, the requirement of Order 41, Rule 27(aa) of CPC is not satisfied as rightly held by the Court below, considering which I am not inclined to interfere in the impugned order. The petition is dismissed. No costs.

JUDGE

Rvjalit