



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

WRIT PETITION NO. 1942/2024

Ramesh S/o Ramchandra Mahajan
Vs.
Anil s/o Damodar Tanksale and others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Anand Jaiswal, Senior Advocate with Mr. R.P. Joshi, Advocate for petitioner

Mr. N.R. Bhishikar, Advocate for Respondent Nos.1 to 19

CORAM: BHARAT P. DESHPANDE, J.

DATED : 21st MARCH, 2024

Heard Mr. Anand Jaiswal, learned Senior Counsel along with Mr. R.P. Joshi, learned counsel for the petitioner and Mr. N.R. Bhishikar, learned counsel for the respondent No.1. Mr. Bhishikar, learned counsel undertakes to waive notice on behalf of respondent Nos.2 to 19.

2. By this petition, the petitioner is challenging the orders passed by the learned trial Court dated 30/09/2023 passed below Exh.433, order dated 05/02/2024, passed below Exh.440 and order dated 05/02/2024, passed below Exh.439.

3. It is the contention of the petitioner that there is an old document of 1875 in "Modi" script.

This document was relied upon in another suit, wherein the respondents are not the parties. In another suit, the said document is produced along with the translation and even the Translator was examined. Though the petitioner produced the certified copy along with the translation in the present suit, it is now realized that the respondents had no opportunity to cross-examine the witness, who did the translation of the said document in Marathi. Mr. Jaiswal, learned Senior Counsel would submit that there is likelihood of raising objection by the respondents to such document and the transcript in Marathi and this document is very much relevant in proving the case of the petitioner. He submits that the other two applications were also rejected on the grounds, which are extraneous to the matter. He would submit that Mr. R.P. Joshi, learned counsel appearing for the petitioner was unable to attend the matter due to his medical conditions and accordingly he gave no objection to his colleague Advocate, who appeared. However, Mr. Joshi, learned counsel was not discharged from the said case. In spite of this, the learned trial Court rejected the application for engaging another Advocate.

4. The learned counsel for the respondents submitted that there is an inordinate delay in filing such applications, therefore, he required two weeks time to file reply.

5. Admittedly, the matter is fixed for further final arguments scheduled tomorrow i.e. 22/03/2024, before the learned trial Court.

6. The issues raised in the present petition needs consideration as the document relied upon by the petitioner is very much relevant for the just decision of the case. Accordingly, issue notice to the respondents, returnable on 04/04/2024.

7. In the meantime, the proceedings before the learned trial Court in Special Civil Suit No.53/1990, pending before the 6th Jt. Civil Judge, Senior Division, Nagpur are stayed till the next date.

8. It is reported that the respondent Nos.1 to 19 are the main contesting defendants for whom Mr. N.R. Bhishikar, learned counsel is appearing. Accordingly, notices to other respondents stand waived.

9. Stand over to 04/04/2024.

10. In the meantime, the respondents to file reply by giving advance copy to other side.

11. Parties to act on the authenticated copy of this order.

(BHARAT P. DESHPANDE, J.)

MP Deshpande