

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.7509 OF 2014

Madhav s/o Shenfadu Gadhari
Age Adult, Occu.Agriculturist,
R/o Akhatwade, Taluka Pachora,
District Jalgaon

.. Petitioner

Versus

1. Smt.Indirabai Adhar Pardeshi,
Age 47 years, Occu.Household,
R/o Kusumba, Taluka Dhule,
District Dhule
2. Sau.Ratanbai d/o Adhar Pardeshi
@ Ratnabai Sandip Rokhade,
Age 23 years, Occu.Household,
R/o Kusumba, at present Moglai,
Taluka Soygaon, Dist.Aurangabad

3. The State of Maharashtra

.. Respondents

Mr K.C.Sant, Advocate for petitioner
Mr C.R.Deshpande, Advocate for respondent No.1
Mr S.K.Tambe, A.G.P. for respondent No.3
Respondent No.2 served

CORAM : N.W. SAMBRE, J.

DATE : 9th January 2015

PER COURT

1. The application Exh.34, moved by the petitioner seeking adjournment in the matter of cross-examination of the plaintiff came to be rejected by the Civil Judge, Sr.Division, Dhule on 26th August 2013, as the petitioner was granted last chance by an order on Exh.33. The petitioner subsequently moved an application Exh.36 for setting aside the 'No cross' order which was rejected on 9th December 2013.

2. Both these applications were objected by the respondents on the count that the conduct of the petitioner has resulted into delaying the trial.

3. This Court, while considering the claim of the petitioner, by an order dated 2nd September 2014 had directed the petitioner to deposit an amount of Rs.5,000/- to show his *bona fides*.

4. The petitioner has deposited the said amount.

5. Learned Counsel for the petitioner submits that by way of last chance, he be granted an opportunity to cross-examine and further assures this Court that he shall not seek adjournment or accommodation on the next date of hearing while cross-examining the plaintiff.

6. Having regard to the reasons cited in the present writ petition, by way of last chance, it will be appropriate and in the interest of justice to grant an opportunity to the present petitioner to cross-examine the plaintiff, as prayed by him.

7. As such, the present writ petition is allowed. The order dated 9th December 2013 below Exh.36 and the order dated 26th August 2013 below Exh.34 passed by the learned Civil Judge, Senior Division, Dhule stand set aside. The amount of costs deposited in the trial Court is directed to be paid to the plaintiff. The amount be permitted to be paid to the plaintiff and thereafter only the present petitioner shall be granted opportunity to cross-examine the plaintiff.

8. If the present petitioner failed to cross-examine the plaintiff on the next date, the petitioner will cease to have any such opportunity in future.

9. With above observations, the writ petition is allowed and stands disposed of.

(N.W. SAMBRE, J.)

(vvr/7509.14wp)