

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

WRIT PETITION NO.3306 OF 2014.

(SANDEEP JAGANNATH PURI...VS..ASHOK SHANKAR GIRI & 2 OTH.)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : OCTOBER 27, 2015.

Heard Shri V.G.Bhamburkar, learned advocate for the petitioner and Shri J.B.Kasat, learned advocate for the respondent No.1/ Defendant No.1.

The petitioner has filed civil suit praying for decree for possession and permanent injunction. After the evidence of the plaintiff was recorded, the plaintiff intended to examine the Measurer as his witness. The witness was not present and the plaintiff had not taken any steps from 28th October, 2012 till 22nd October, 2013 to secure the presence of the witness. The matter proceeded and the evidence of the defendant No.1 also came to be recorded. Thereafter the plaintiff filed an application seeking permission to examine the witness. This application was allowed by the trial Court by the order dated 22nd October, 2013 subject to payment of costs of Rs.Five Thousand with direction that the plaintiff will secure presence of the witness till 29th October, 2013. The plaintiff neither deposited the amount of costs nor took steps to secure the presence of the witness, till 29th October, 2013. The plaintiff filed application (Exh.68) on 30th January, 2014 praying that he be permitted to deposit the amount of costs

and to take steps to secure the presence of the Measurer. This application is rejected by the trial Court by the impugned order.

Shri Kasat, learned advocate for the respondent No.1 has submitted that the arguments are heard and the matter is fixed today for judgment.

As the matter is listed today before the trial Court for judgment, I am not inclined to interfere with the impugned order in the extraordinary writ jurisdiction.

The petition is **dismissed**. In the circumstances, the parties to bear their own costs.

It is clarified that the merits of the contentions made on behalf of the petitioner are not dealt with.

JUDGE