

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.2807 OF 2016**

1. Shri Yadvesh Transport  
Company Pvt Ltd

Petitioners

Vs

1. M/s Jerry Verghese  
Construction Ltd and Ors.

.. Respondents

Mr. Ashish Dube, Advocate for Petitioners.

Mr. Mukesh Vashi, Senior Advocate, a/w Mr Gajanan D. Shinde i/b  
M.P.Vashi and Associates, for Respondent no. 1.

CORAM : R.G.KETKAR,J.

DATE : 04/03/2016

**PC:**

1. Heard Mr. Ashish Dube, learned counsel for the petitioners and Mr. Mukesh Vashi, learned senior counsel for respondent no.

1. On the oral application made by Mr. Dube, respondent no.2 is deleted from this petition.

2. Rule. Mr. Shinde waives service for respondent no.1. At the request and by consent of the parties, Rule is made returnable forthwith and petition is taken up for final hearing.

3. By this petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as 'defendant no.1, has challenged the judgment and order dated 11.2.2016 passed by the learned Judge presiding over Court Room no.13 of the Bombay City Civil Court at Mumbai in Notice of Motion No.617 of 2010 in Suit No.9893 of 1993 (High Court Suit No.4562 of 1993). By that order, the learned trial Judge rejected the motion taken

out by defendant no.1 for setting aside the order dated 12.12.2015 thereby proceeding with the suit without cross examination by defendant no.1 and order dated 20.1.2016 proceeding with suit without evidence of defendant no.1.

4. Mr. Vashi fairly stated that the impugned order may be set aside with direction to defendant no.1 to extend full cooperation in recording evidence of the witnesses. He further submitted that the learned trial Judge may be directed to dispose of the suit in a time bound manner.

5. In view thereof, by consent of the parties, the impugned orders are set aside. Assurance given on behalf of defendant no.1 that he will complete cross examination of the plaintiff's witnesses on dates so fixed by the learned trial Judge and will not seek undue adjournments, is recorded. Defendant no.1 will also extend full cooperation for finishing his evidence.

6. Having regard to the fact that the suit is of the year 1993, the learned trial Judge is requested to decide the suit as expeditiously as possible and preferably within six months from today.

7. Rule is made absolute accordingly, with no order as to costs.

(R.G.KETKAR, J.)