

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1477 OF 2016

Sudhakar Dattatray Dighe and anr. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

Mr. Anand Kumar for the Petitioners.
None for the Respondents.

CORAM : R. M. SAVANT, J.
DATE : 08th February 2016

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated `07/09/2015 passed by the learned Civil Judge, Junior Division, Vadgaon Maval by which order the Application (Exhibit 109) filed by the Petitioners herein for setting aside the order dated 13/03/2013 passed by the same Court came to be rejected.

2 By the said order dated 13/03/2013 the learned Civil Judge, Junior Division, Vadgaon Maval had rejected the Application for adjournment and closed the evidence of the Defendant Nos.1 and 2. It has been recorded in the said order dated 13/03/2013 that in spite of several opportunities given after 15/09/2012 on which the date the Plaintiff closed his evidence, the Defendants have filed the applications for adjournment over a period of 6 months and had not led their evidence.

3 It is required to be noted that the Application (Exhibit 109) has been filed after a period of 2 years of the order dated 13/03/2013 being passed. The Trial Court has also recorded that the matter was kept for arguments and it is at that stage that the said Application (Exhibit 109) came to be filed. It is also required to be noted that though the impugned order is dated 07/09/2015, the instant Petition has been filed on 09/12/2015 i.e. almost after a period of 3 months of the said order being passed. It therefore speaks volumes as regards the manner in which the Defendant Nos.1 and 2 are prosecuting the said suit. It is also required to be noted that in the suit as filed the allegation of the Defendant Nos. 1 and 2 having sub-let the premises in question to the Defendant Nos.3 and 4 have been made as also the allegation that the Defendants are preventing the Plaintiff from accessing the first floor of the his property. In spite of the Plaintiff coming to the Court with such a case, the Defendant Nos.1 and 2 failed to file their affidavit of evidence in spite of opportunities being granted to file their affidavit of evidence. In my view, a Writ Court cannot show indulgence to such litigants. Hence exercise of writ jurisdiction of this Court is not warranted. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]