

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

**WRIT PETITION NO. 3949 OF 2014**

Shri Sharadkumar Chimajirao Janavalkar. ... Petitioner.  
Versus  
Sou. Namrata Gajanan Velhal & ors. ... Respondents.

---

Mr. Vishwanath S. Talkute, advocate for petitioner.

Mr. Tushar Dahibawkar a/w. Ms. Pooja Kharat i/b. Dahibawkar & Co., advocate for respondent No. 1.

---

**CORAM : SMT.SADHANA S. JADHAV,J  
DATE : NOVEMBER 21, 2017**

**P.C.:**

1 Heard the learned Counsel for the Petitioner and the learned Counsel for the respondent.

2 Rule. Rule made returnable forthwith with the consent of the parties.

3 The Petitioner herein happens to be the original plaintiff in Special Civil Suit No. 85 of 2012 pending before Civil Judge, S. D.,

Ratnagiri. That the Plaintiff had filed an application below Exh. 64 for granting him permission to lead further evidence. The said application was rejected by an order dated 30/1/2014. The impugned order was not challenged and hence had attained finality. Thereafter, the Petitioner had sought time to proceed with the final argument on the ground that he desires to challenge the order dated 30/1/2014. The said request of the plaintiff/petitioner had protracted the proceedings. Finally, the learned Court was constrained to close the matter for judgment, thereby, foreclosing argument of the plaintiff. The said application seeking adjournment and time for arguing the matter finally was rejected by order dated 21<sup>st</sup> March, 2014. Hence, the present Writ Petition.

4     Learned Court had observed that despite the fact that the plaintiff and his advocate were present before the court, they had sought an adjournment on the ground that they do not have a proper compilation of documents to proceed with their arguments. The learned Civil Judge, S.D. had rightly rejected the application

foreclosing their arguments. It is pertinent to note that in the present Writ Petition, Petitioner has once again made a frail attempt to challenge the order dated 30/1/2014, which was not challenged at the proper stage and an adjournment was being sought on the said ground time and again.

5 The learned Counsel for the respondent has submitted that in fact, the proceedings have been protracted by the plaintiff and therefore, the Court had rightly rejected the said application.

6 However, in the interest of justice to give a fair opportunity to the plaintiff/petitioner to put forth his case by way of final argument, the orders dated 30/1/2014 passed below Exh. 64 and dated 21/3/2014 below Exh. 1 are quashed and set aside. The Petitioner shall deposit a cost of Rs. 10,000/-before the trial Court on or before 6/12/2017 and proceed with the arguments in the week commencing from 11/12/2017 without seeking any adjournment.

7 In the eventuality that the cost is not deposited on or before 6/12/2017 and the petitioner seek an adjournment on 11/12/2017, the orders dated 30/1/2014 and 21/3/2014 passed by Joint Civil Judge, S.D. Ratnagiri shall stand revived.

8 Rule is made absolute in the above terms. Writ Petition is disposed of accordingly.

**(SMT. SADHANA S. JADHAV,J)**