

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

WRIT PETITION NO.5373 OF 2017

Abdul Gaffar Lalamiya Desai

...Petitioner

Versus

Gulam Mohammad Ahmed Desai & Ors.

...Respondents

.....
Mr.Saurabh Bhutada i/b. Mr.Harshad Bhadbhade for the Petitioner.
Mr.Prasad P. Kulkarni for Respondent No.1.
.....

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: AUGUST 01, 2017**

P.C. :

1. Rule. Rule made returnable forthwith. By consent, petition is heard finally and disposed of at the stage of admission.
2. This petition is directed against the order dated 11.04.2017 passed by the learned Civil Judge, Junior Division, Khed, below Exhibit 202 in Regular Civil Suit No. 94 of 2012, thereby rejecting the application for issuing witness summons.
3. The said application was opposed by respondent no.1/original plaintiff on the ground that these are delaying tactics of the petitioner/defendant and as the witnesses are not remained present, the evidence of these witnesses ought to have been discarded.

4. It appears that the affidavit of examination in chief of two witnesses is on record and therefore, the order dated 11.04.2017 passed by the learned Civil Judge, Junior Division, Khed is hereby set aside. The application below Exhibit 202 is allowed. The trial Court is directed to issue witness summons only to these two witnesses, as these witnesses names are mentioned in Exhibit 202.

5. Rule made absolute in terms of prayer clause (b) of the Writ Petition.

6. Writ Petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)