

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

CIVIL REVISION APPLICATION NO. 396 OF 2017

Shri Mahesh Kumar Nandrajog
Legal heirs of late Shri Radhakrishnan
R. Nandrajog

...Applicant

Versus

P.S.Smabamoorthy & Ors.

...Respondents

.....
Mr.Amit A. Gharte for the Applicant.
Mrs.S.A.Dhande for Respondent No.1

.....

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 25, 2017**

P.C.

1. This Civil Revision Application is directed against the order dated 21.06.2007 passed by the learned Ad-hoc District Judge, City Civil & Sessions Court, Greater Bombay, in Notice of Motion No. 572 of 2017, wherein the applicant has sought relief for dismissal of the Suit for want of prosecution under Order 11 Rule 21 of the Code of Civil Procedure, 1908. The Notice of Motion was taken out by defendant no. 6 i.e. the present petitioner under Order 11 Rule 21 of C.P.C., which is in respect of non- compliance with the order for discovery. Under the said Rule, if any party fails to comply with any order to answer interrogatories, or for discovery or inspection of documents, then other party may apply to the Court and the defence can be struck out in respect of the defendant and the Suit can be dismissed for want of prosecution against the plaintiff.

2 In the present case, the Suit is at the stage of arguments. The evidence of the parties is over. Thus, the Suit has crossed the stages under Orders 14,16 and 18 of the Code of Civil Procedure. The entire case of the plaintiff and the defendants' defence is unfolded before the trial Court and at this stage, the application under Order 11 Rule 21 of C.P.C. cannot be entertained. The learned Judge has rightly dismissed the Notice of Motion. The contentions of the defendants in respect of the documents or not giving inspection or not answering discoveries are always open and that can be appreciated on the basis of entire evidence. There is no need to disturb the order passed by the learned Judge.

3. Hence, Civil Revision Application is dismissed

(MRIDULA BHATKAR, J.)