

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 1860 OF 2017

Mahadu Deoram Rahade & Anr. ... Petitioners
Vs.
Smt. Chhababai Ganpat Rahade & Ors. ... Respondents

Mr. Sachin Gite, Advocate for the petitioners.
Mr. Rameshwar N. Gite, Advocate for respondents no. 1 to 6.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 19th June, 2017.

P.C.:

Rule. Rule made returnable forthwith. By consent, this Petition is heard finally and decided at the stage of admission.

2. Pursuant to the order dated 14th February, 2017, the advocate on record Mr. Trimbak Sadashiv Paghar, Talegaon taluka, District Nashik filed an affidavit explaining the reason why he was not present in the Court on 20th June, 2016 in the morning. He mentioned that on that date, his mother, being a heart patient had trouble and she was taken to hospital of one Dr. Sameer Saha at Nashik and, therefore, he could not reach the Court in time. At 5 p.m. No Cross order was passed. The affidavit is taken on record. The learned Advocate has given an undertaking that hereafter he would take care and he is ready to cross-examine the witness.

3. The learned counsel for the respondents vehemently opposed this Petition and pointed out that earlier on so many dates though the plaintiffs remained present, the defendants did not cross-examine and the plaintiffs have suffered lot of inconvenience.

4. Be that as it may, in view of the affidavit filed by the learned counsel on record, this Petition is allowed. This is the last chance given to the petitioner to cross-examine and proceed with the matter and cooperate the Court whenever the matter is scheduled. Hence, I pass the following order:

- (i) Rule is made absolute in terms of prayer clauses (a) and (b) subject to payment of cost;
- (ii) The order dated 20th June, 2016 is set aside;
- (iii) On the next date, without fail, the Advocate to proceed with the cross-examination of the plaintiffs and plaintiffs to remain present;
- (iv) Parties are specifically directed to cooperate the Court and matter to proceed further;
- (v) The cost of Rs.15,000/- is saddled on the petitioners and is to be paid within one month.

(MRIDULA BHATKAR, J.)