

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 WRIT PETITION NO. 10961 OF 2017

RAJKUMAR INDREASEEN SURYAWANSHI
VERSUS
SARDARMAL JORAWALMAL CHAUDHARI

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Advocate for Petitioner : Mr. M. S. Kulkarni
Advocate for Respondent : Mr. Chaitanya Deshpande h/f
Mr. C. R. Deshpande

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CORAM : V. K. JADHAV, J.
DATED : 6th MARCH, 2018

PER COURT:-

1. By consent, this petition can be disposed of on costs of Rs.25,000/-, which is already deposited by the petitioner before the trial court.
2. The petitioner is the original defendant in the suit instituted by respondent/ plaintiff, seeking a decree of specific performance of contract with consequential reliefs.
3. In response to the summons served on the petitioner, the petitioner could not appear before the trial court due to some reasons and as such the trial court has passed the order directing thereby to proceed *ex-parte* as against the petitioner. The petitioner has thereafter, filed an application Exh.22 for setting

aside the said *ex-parte* order. However, the trial court has rejected the said application.

4. In response to the order passed by this court to show the bonafides, the petitioner has deposited Rs.25,000/- before the trial court. The matter pertains to immovable property, it would be just and proper, if the suit is decided on merits. Hence, the following order.

ORDER

- I) Writ petition is hereby allowed.
- II) The impugned order below Exh.22 dated 06.10.2016 in Special Civil Suit No. 105 of 2013 passed by Joint Civil Judge (Senior Division), Dhule is hereby quashed and set aside.
- III) Application Exh.22 is hereby allowed as per its prayer clause, subject to the cost of Rs.25,000/-, which is already deposited before the trial court.
- IV) The respondent / original plaintiff is permitted to withdraw the said costs.
- V) Writ petition is accordingly disposed of.

(V. K. JADHAV, J.)