

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

917 WRIT PETITION NO. 14079 OF 2017

KASHINATH TUKARAM BONGANE
VERSUS
BABURAO NAMDEO PARADE AND OTHERS

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Advocate for Petitioner : Mr. Salunke Sudarshan J

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CORAM : V.K. JADHAV, J.
Dated: April 05, 2018

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PER COURT :-

1. Learned counsel for the petitioner/original defendant no.1 submits that, the petitioner is ready to examine his remaining two witnesses on any date as this Court directs while allowing this writ petition and, the petitioner would not seek any adjournment before the trial court. Learned counsel submits that, in the event, if the petitioner would not be in a position to secure the attendance of those witnesses on the date as fixed by this Court, he would close his evidence.

2. None present for the respondent no.1/original plaintiff though duly served with the notice of final disposal.

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3. Respondent No.1/plaintiff has instituted the suit for demolition of the construction and declaration about the sale deed as null and void. Thus, considering the nature of the suit instituted by the respondent no.1/plaintiff, in my opinion, one more chance is required to be given to the petitioner. Learned counsel, on instructions, submits that, the trial court has kept the matter on 13.4.2018 for final hearing.

4. In view of the discussion as above, I proceed to pass the following order.

O R D E R

- I. Writ Petition is hereby allowed. No costs.
- II. The order passed below exh.120 dated 4.2.2017 and below exh.121 dated 10.4.2017 by the Civil Judge J.D., Aundha Nagnath, District Hingoli in R.C.S.No.192/2008 are hereby quashed and set aside.
- III. The applications at exh.120 and 121 are hereby allowed in terms of its prayer clauses with the following directions :-

- a] The petitioner shall keep those two witnesses present before the trial court on **20.4.2018** and the petitioner would not seek any order of the court of issuing summons to those witnesses.
- b] The Trial court shall record the evidence of those two witnesses on the same day.
- c] In the event, if the petitioner fails to secure the attendance of those witnesses on his own, the petitioner would file his evidence close pursis as agreed before this Court.

IV. Writ Petition accordingly disposed of.

(V.K. JADHAV, J.)

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