

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13769 OF 2017

VIJAY SADASHIV GIRI
VERSUS
THE MAHARASHTRA STATE ELECTRICITY DISTRIBUTION
COMPANY LTD. THROUGH PRESIDENT AND OTHERS

...
Mr. K.B. Jadhav, Advocate for petitioner
Respondents no.1 and 2 served - absent
Mr. R.J. Nirmal, Advocate for respondent no.4
Mr. P.K. Lakhotiya, Advocate for respondent no.5
Respondent no. 6 – formal party
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 29-09-2018

ORDER :

1. Heard learned counsel for the parties.
2. Aggrieved by order dated 27-10-2017, rejecting applications at exhibit – 47 and 49 for issuing commission for recording evidence of witnesses pursuant to Order XXVI, Rule 4 of code of civil procedure, the petitioner is before this court. Trial court appears to have considered that the witnesses concerned be better before the court rather than being examined by issuing commission, as they are residents within a distance of 100 km. Trial court, it appears, has further considered appropriate that the dates of evidence can be fixed according to convenience of said witnesses.

3. Discretion so exercised by trial court does not appear to be not in adherence of sound judicial principles nor does appear that order passed is so arbitrary calling for interference with in the same by this court in its discretionary powers.

4. In view of above, writ petition is not being entertained and is rejected.

5. The convenience of witnesses, however, as observed by trial court, having regard to the sombre nature of proceedings pending before trial court, may be taken into account.

[SUNIL P. DESHMUKH]
JUDGE

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