

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8388 OF 2014

Amrita A. Avasare ..Petitioner

Vs.

Madhav M. Vaidya and Others ..Respondents

Mr. Kuldeep V. Nikam, for the Petitioner.

Mr. Devendra S. Joshi, for Respondent No.1.

CORAM :- **B.P.COLABAWALLA, J.**
DATE :- **DECEMBER 14, 2018.**

P. C.:

Rule. Respondent No.1 and who is the only contesting Respondent waives service. With consent of Respondent No.1, rule made returnable forthwith and heard finally.

2 This Writ Petition challenges the order passed by the Trial Court dated 2nd August, 2014 below Exhibit-57 and 11th August, 2014 passed below Exhibit-58 in Regular Civil Suit No. 117 of 2012. In Exhibit-57, the request made by the Petitioner herein was for adjournment. Thereafter, the Petitioner filed Exhibit-58 for setting aside “the no cross” order. That also came to be

rejected by the Trial Court vide its order dated 11th August, 2014. It is in these circumstances that the present Petition has been filed.

3 Though the Trial Court has recorded that the Petitioner has sought repeated adjournments to cross examine the witness of the Original Plaintiff (Respondent No.1 herein), I do not think that the Petitioner should be denied the right of cross examination only on this ground.

4 Considering that the rights of the party should not be prejudiced in this manner, the Writ Petition is allowed and the impugned orders dated 2nd August, 2014 and 11th August, 2014 are hereby set aside subject to the Petitioner paying costs of Rs. 5,000/- to the Kirtikar Law Library, High Court, Bombay within a period of three weeks from today and place the receipt evidencing the payment of costs on the file of this Writ Petition and also furnish a copy of the same to the Trial Court showing compliance of the payment of costs, failing which the Writ Petition shall stand dismissed without further reference to the Court.

5 The Writ Petition is disposed of in the aforesaid terms.

6 Considering that the suit has been filed in the year 2012 the Trial Court is requested to hear and dispose of the suit as expeditiously as possible and in any event within a period of one year from today. Both parties have agreed before me that neither of them shall ask for any unnecessary adjournment before the Trial Court. The statement is accepted.

(B. P. COLABAWALLA, J.)