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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1405 OF 2016

Shri.Sakharam Dhondiram Waje	...Petitioner
VS	
Shri.Nivrutti Ganpat Satpute & Ors.	...Respondents

.....
Mr Girish R. Agrawal for the Petitioner.
.....

**CORAM : K.K.TATED, J.
MAY 03, 2018.**

P.C. :

Heard learned counsel for the petitioner.

2 By this petition under Article 227 of the Constitution of India, the petitioner is challenging an order dated 24th March, 2014 passed by the Jt. Civil Judge, Junior Division, Nashik-Road below exh.89 in Regular Civil Suit No.13 of 2004 rejecting the petitioner's application under Order XVI Rule 17 of the Code of Civil Procedure, 1908 ("CPC") calling upon defendant no.1 to enter into the witness box.

3 It is to be noted that in the present proceedings, the petitioner – plaintiff filed R.C.S. No. 13 of 2004 before the Civil Judge, J. D. Nashik-Road for an injunction restraining the

respondent- defendant from disturbing his possession in the land admeasuring 00-12.50 Are from Survey No. 5/4/2 at village Chehadi, Taluka and District Nashik.

4 Suit is simpliciter for injunction against the respondents – defendants. The burden is on the plaintiff to prove his case on his own documents and evidence. He cannot call upon the defendants under Order XVI Rule 17 of CPC in support of his case, unless and until extraordinary case is made out to bring on record the evidence which is not in possession of the plaintiff. To that effect, the plaintiff has not made out any case.

3 Considering this fact, I do not find any reason to interfere in the order dated 24th March, 2014 passed by the Joint Civil Judge, J.D., Nashik-Road below exh.89 in R. C. S. No. 14 of 2004 under Article 227 of the Constitution of India. Hence, the Writ Petition stands rejected. No order as to costs.

(K.K.TATED, J.)