

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 625 OF 2018

M/s.Commodities Intertrade, Delhi

..... Petitioner

VERSUS

**M/s.Taraji Ghewarchand and
Company & Anr.**

..... Respondents

Mr.R.V.Bansode for the Petitioner.

Mr.S.S.Kulkarni for the Respondent no.1.

CORAM : R.D. DHANUKA, J.

DATE : 11th SEPTEMBER, 2018

P.C.

By this petition filed under Article 227 of the Constitution of India, the petitioner (original defendant no.1) has impugned the order dated 11th August,2017 passed by the learned Civil Judge, Senior Division, Karad rejecting the application (Ex.262) *inter alia* praying for setting aside the 'no evidence order' passed against him on 21st June, 2017.

2. I have heard the learned counsel for the parties and have perused the documents annexed to the petition. The office of the petitioner is situated at Delhi. The suit proceedings are filed in the court at Satara. The petitioner has given various reasons for remaining absent for the purpose of recording his cross examination. The learned trial judge however has closed the evidence of the petitioner on the ground that the suit was 15 years old. The petitioner has allegedly not justified his

absence on the date when his evidence was closed by the learned trial judge. The cross examination of the defendant no.1 is already partly recorded on 22nd September, 2014.

3. Mr.Bansode, learned counsel for the petitioner undertakes on behalf of his client that his client will remain present whenever the matter would be placed on board for recording his evidence and will not seek any unnecessary adjournment. Undertaking rendered by the learned counsel is accepted.

4. For the aforesaid reason, the impugned order dated 11th August,2017 is quashed and set aside.

5. The application filed by the petitioner (Ex.262) is allowed.

6. The order dated 21st June, 2017 passed by the learned trial judge of 'no evidence' against the respondent no.1 is also quashed and set aside.

7. The petitioner (original defendant no.1) is directed to remain present before the learned trial judge on the date as may be fixed by the learned trial judge and shall not seek any unnecessary adjournment.

8. It is made clear that if the petitioner remain absent on the date fixed by the learned trial court, the evidence of the petitioner shall be closed without showing any further indulgence to the petitioner.

9. It is made clear that none of the party shall seek any unnecessary adjournment before the learned trial court. The suit is of the year 2002 and shall be disposed of expeditiously in co-operation of the parties with each other and with the learned trial judge.

10. Writ petition is allowed in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]