

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.10076 OF 2015

Dnyanopasak Shikshan Mandal,  
Rawa, Tq.Jintur, Dist.Osmanabad.

Petitioner

Versus

Narsingdasji s/o Bansilal Ladda  
(deceased) L. Rs & others

Respondents

Mr.Arvind Deshmukh, advocate for the petitioner.  
Mr.S.S.Chillarge, advocate for Respondents No.4/1 to 4/4.  
Respondents No.1/1 and 5 are reported to be dead.  
None present for Respondents No.6 & 7.  
Respondents No.1/2 to 1/4, 2, 3, 8 & 9, 10/1 to 10/4 are absent,  
though served.

**CORAM : RAVINDRA V. GHUGE, J.**

**DATE : 29<sup>th</sup> August, 2019**

**PER COURT:**

1 By the order dated 16.09.2015, passed by this Court  
(**Coram: Sunil P. Deshmukh, J.**), the Special Civil Suit No.81 of  
2000 has been stayed.

2 I have heard learned advocates for the respective sides  
and have gone through the petition paper book with their  
assistance.

3           It is canvassed that a witness by name Abdul Majid Abdul Mahemood Shaikh, working as Tax Recovery Inspector with the Municipal Corporation, Parbhani, had received the Court summons and he appeared before the Court along with the necessary documents on 07.09.2015. His cross-examination, on behalf of defendants no. 2, 3 and 4, was closed on the same date. The petitioner-defendant no.1 moved an application Exhibit-255 seeking time to cross examine the said witness. The trial Court, however, passed the impugned order dated 07.09.2015, by which Exhibit-255 was rejected. As the petitioner approached this Court and the *ad interim* order was passed on 16.09.2015, the suit has been stayed for the last four years.

4           I do not find that the impugned order is sustainable. On the day the cross-examination was scheduled, the petitioner had asked for the first adjournment. Considering the peculiarity of the matter, I find that there would be no harm in permitting the petitioner to cross examine the said witness within a particular time frame so as to avoid further delay in the suit, which has been lodged in 2000.

5           In view of the above, this petition is allowed. The impugned order dated 07.09.2015 is quashed and set aside. The parties are directed to appear before the trial Court on 23.09.2019.

6           The trial Court shall once again summon the said witness namely, Abdul Majid Abdul Mehmood Shaikh along with the record and after appearance of the said witness, the petitioner-defendant no.1 shall cross examine the said witness on the same day without seeking any adjournment. Any adjournment sought for any reason whatsoever shall be rejected by the trial Court.

7           Considering the request made on behalf of the respondents herein, the trial Court would decide SCS No.81 of 2000, as expeditiously as possible and in any case, on or before 31.03.2020.

**RAVINDRA V. GHUGE**  
**JUDGE**

adb/