

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10954 OF 2019

**RADHESHYAM RAMESHWARJI KABRA
VERSUS
SAGAR PREMKUMAR BHANGIYA AND OTHERS**

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Advocate for the Petitioner : Shri U. B. Bilolikar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 4th SEPTEMBER, 2019.

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PER COURT :

1. The petitioner is aggrieved by the order dated 10/07/2019 passed by the Trial Court, by which, his application Exhibit 81 praying for liberty to lead evidence as defendant No.1 in Regular Civil Suit No. 41/2012, has been rejected.

2. I have considered the strenuous submissions of the learned Advocate for the petitioner / defendant No.1. He has drawn my attention to the four grounds formulated in the memo of the petition.

3. The record reveals that the stage in the suit for recording

the evidence of the petitioner was pending for a long time. Finally on 25/06/2018, the Trial Court ordered the closing of evidence of the petitioner. He then moved an application for recalling of the said order and the said application was allowed by order dated 20/12/2018 by imposing costs of Rs. 3,000/-. The petitioner did not pay the said costs and moved an application after 3 months for more time. On 19/03/2019, one more opportunity was granted by imposing additional costs of Rs. 500/-. The petitioner deposited costs on 19/03/2019 through the advocate and did not remain present to lead evidence on the said date as well as on 25/04/2019, and hence a second 'evidence closing order' was passed on 25/04/2019. The petitioner yet waited for three months and moved an application on 10/07/2019 Exhibit 81 praying for recalling the second 'evidence closing order'. By the impugned order, Exhibit 81 has been rejected.

4. Besides the above facts, the Trial Court has recorded in the impugned order that the petitioner only seeks adjournments and if the adjournment is granted by imposing costs, he does not deposit the costs. This has continued till

July 2019 and it is submitted across the bar that the petitioner has still not advanced his oral argument.

5. Considering the conduct of the petitioner and keeping in view that though he was granted opportunity to lead evidence for a period of almost two years, he has not led any evidence. There are two orders of closing evidence.

6. In view of the above, this petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-