

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

WRIT PETITION NO.11221 OF 2019

**SUSHILABAI SAKHARAM HIWALE
VERSUS
PARBHANI CITY MUNICIPAL CORPORATION AND ANOTHER**

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Advocate for the Petitioner : Shri A. A. Mukhedkar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 11th SEPTEMBER, 2019.

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PER COURT :

1. The petitioner / original plaintiff in Regular Civil Suit No. 176/2008, is aggrieved by the order dated 31/07/2019 passed by the Trial Court, by which, her application Exhibit 94 praying for recording evidence of a witness through a court commissioner, has been rejected.

2. I have considered the strenuous submissions of the learned Advocate for the petitioner and have gone through the six grounds formulated in the memo of the petition.

3. The record reveals that this Court had earlier passed an

order on 14/02/2019 in Writ Petition No. 4374/2014 filed by this petitioner, by which, the petition was dismissed and the Trial Court was directed to decide the case within four months from the date of the order.

4. By application Exhibit 94, the petitioner has submitted that a witness, namely Ramchandra Annaji Vaidya is bed-ridden and his testimony may be recorded through a court commissioner. Exhibit 94 does not mention any illness, except that the said witness is bed-ridden. The learned Advocate for the petitioner points out from the medical certificate that the said witness was suffering from high blood pressure and sugar. The medical certificate issued by a doctor practicing in Sch-Aayurved is placed on record. Prescriptions prescribing medicines to be administered are not placed on record. The Trial Court has concluded that the illness as regards high blood pressure and sugar cannot be said to be of such nature, which may require complete bed rest. Moreover, the bed rest was granted only for 15 days from 15/07/2019.

5. In view of the above, I do not find that the impugned

order could be termed as being perverse or erroneous. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-