

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

WRIT PETITION NO.13690 OF 2019

TULSHIRAM LAXMAN WAGH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Shri Shinde Abasaheb D.
AGP for Respondents 1 and 2 : Shri P.M.Kulkarni

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 13th November, 2019

Per Court:

1 I have heard the learned advocate for the petitioner and the learned AGP on behalf of respondent Nos.1 and 2, who are parties to Regular Civil Suit No.69 of 2018 (Old RCS No.274 of 2015). As I am passing an innocuous order, I am not issuing notices to the respondents.

2 The petitioner/plaintiff has approached this Court with a peculiar cause of action. He challenges the adjournment order dated 17.10.2019 passed by the Trial Court posting the matter to 21.11.2019 for a hearing on the application Exhibit 95.

3 The learned Advocate for the petitioner has pointed out the following aspects:-

a) The affidavit in lieu of examination-in-chief has been filed by

the petitioner/ plaintiff on 23.03.2018.

- b) Prior to the above, the matter was transferred to the competent Court at Kopergaon considering the illness of the plaintiff.
- c) After the matter was transferred and the affidavit in lieu of examination-in-chief was filed, the plaintiff initially underwent amputation of his fingers of both the legs on account of being a severe diabetic patient.
- d) Subsequently his left leg was amputated from the knee on account of uncontrolled rise in sugar levels. Now he is practically confined to his bed and his mobility is severely restricted.
- e) Exhibit 95 was filed for appoint of the Court Commissioner so as to conduct the cross-examination of the plaintiff at his residence at Kopergaon, which is within the taluka limits of the Court dealing with the pending suit.
- f) Though Exhibit 95 was filed on 22.07.2019, liberal adjournments have been granted and it is still not decided.

4 Considering the above, I find that the grievance of the petitioner could be entertained to the extent of issuing certain directions, keeping in view that the impugned adjournment dated 17.10.2019 has

practically lost its efficacy as the matter is already posted on 21.11.2019. The learned Advocate for the petitioner prays that the suit may be granted a time frame as the plaintiff is severely ill and his health is deteriorating every passing day.

5 In view of the above, this Writ Petition is disposed off with the following directions:-

- (a) All the litigating sides shall advance their oral submissions on 21.11.2019 and shall conclude such submissions on or before 22.11.2019.
- (b) The petitioner shall place the copy of this order obtained from the official website of the Bombay High Court, before the Trial Court on 21.11.2019 so as to apprise the litigating sides.
- (c) The Trial Court shall deliver an order on exhibit 95 on or before 30.11.2019 as it is a short application to be decided.
- (d) Considering the health status of the plaintiff, the Trial Court shall decide Regular Civil Suit No.69 of 2018 (Old RCS No.274 of 2015) as expeditiously as possible and preferably on or before 30.06.2020.