

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4534 OF 2019

Smt. Madhu C. Acharya

... Petitioner

Vs

Shri Vinod S. Patil

... Respondent

...

Mr. Prosper D'Souza for the Petitioner.

Mr. Rajesh S. Datar for the Respondent.

CORAM : SANDEEP K. SHINDE J.

DATE : JUNE 27, 2019

P.C. :

Petitioner is the defendant in Regular Civil Suit No.146 of 2013, instituted by the respondent in the Court of Civil Judge, Junior Division, Navi Mumbai. Respondent/plaintiff seeks decree of injunction against the defendant.

2 Petitioner/defendant summoned the officer of the CIDCO as her witness. However, it appears that defendant has not examined officer though she was afforded opportunity from time to time. The defendant was afforded last chance on 12th June, 2018 to lead the evidence, however, she did not lead the evidence. The Trial Court in the given set of facts, closed her evidence vide order dated 17th July,

2018. It is against this order, the petitioner has preferred this Writ Petition under Article 227 of the Constitution of India.

3 The petition was heard on 8th April, 2019 and the notices were directed to be issued to the respondents. The petitioner was further directed to deposit amount of Rs.5,000/- in this Court by way of security.

4 Petitioner submits that cost has been deposited on 9th April, 2019 and has placed on record original receipt along with the affidavit.

5 Thus, taking into consideration facts of the case and since petitioner has deposited cost as quantified, the impugned order dated 17th July, 2018 is set aside.

6 Petitioner is present in person.

7 Mr. Datar the learned counsel for the petitioner submits that the suit is pending before the Court since 2014 and the plaintiff has already led his evidence. He submits that defendant is not willing to go ahead with the suit proceedings but interested in prolonging the proceedings. He has pointed out list of witnesses submitted by

the defendant in the trial Court. I have perused the same. She has cited fifteen witnesses to whom she wants to examine. The learned counsel for the petitioner, however, on instructions from the petitioner submits that petitioner shall examine only officer of the CIDCO, officer of the Navi Mumbai Municipal Corporation who is at Sr.No.4 of the list of the witnesses and the witnesses at Sr.Nos.10 and 15. Statement is accepted.

8 It is informed that suit is posted for leading evidence on 2nd July, 2019. Petitioner/defendant undertakes to remain present before the trial Court on 2nd July, 2019 and lead evidence.

9 The trial Court shall make endeavour to conclude the trial as expeditiously as possible. Petition is allowed in the aforesaid terms. It is made clear that petitioner undertakes that she shall not seek unnecessary adjournments. Undertaking is accepted.

(SANDEEP K. SHINDE, J.)