

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4476 OF 2018

Shri. Vilas Manik ThongePetitioner

V/s.

Shri. Sumatilal Shivilal Munot
and Ors.Respondents

Mr. Umesh Kurund, Advocate for the petitioner.
None for the respondent.

CORAM : SANDEEP K. SHINDE, J.

Friday, 5th July, 2019.

P.C. :

1. The petitioner is defendant in Special Civil Suit No. 12 of 2015 instituted by the respondents herein for specific performance of a contract dated 23rd September, 2015. It appears that, the plaintiff's witness was cross-examined and thereafter defendant sought leave to lead secondary evidence. It is his case that, before executing the suit agreement, an agreement was executed on 14th

September, 2013 and its original is with the plaintiffs. He therefore sought leave to lead secondary evidence in respect of the agreement dated 14th September, 2013. The learned Judge declined the leave since the witnesses were close to cross-examination. I do not see any error committed by the Court in exercise of jurisdiction or otherwise, while declining the leave as sought. Besides, the order impugned is non-appealable and since there is no right to appeal from such order, it is always open to challenge and object to the error or defect or irregularity of the order affecting the decision in Appeal filed against the original decree. In view of this, the petition is dismissed.

(SANDEEP K. SHINDE, J)