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

CIVIL REVISION APPLICATION (ST) NO.29409 OF 2019

Samad Pita Husain Shaikh	...Applicant
Versus	
Shahnaz Pati A. Samad Shaikh and Anr.	...Respondents

Mr. S. S. Patwardhan a/w Mr. B. R. Mandlik, for the Applicant.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th DECEMBER, 2019

P.C. :

1. Heard learned counsel for the Applicant.
2. By this application, the applicant has impugned the order dated 25th June, 2019, passed by the learned Civil Judge Senior Division, Solapur, below Exhibit – 19 as well as order dated 24th July, 2019, passed below Exhibit – 36, in Regular Civil Suit No. 596 of 2016.
3. The Applicant is the husband of Respondent No.1 and father of Respondent No.2. The Respondents are the original plaintiffs, who had filed a Suit being Regular Civil Suit No. 596 of 2016, in the Court of the learned Civil Judge Senior Division, Solapur, on 22nd July, 2016. In the said Suit,

the Respondents (original plaintiffs) have prayed for a decree of partition by metes and bounds, in respect of the properties mentioned in clause – 1(a), (B) and (C) of the said suit. It appears that pursuant to the summons, the applicant (original defendant) appeared in the Civil Suit and filed his written statement on 7th November, 2016. It is not in dispute that Respondent No.1 – Wife has also filed other proceedings, as against the Applicant – Husband under the Domestic Violence Act. It appears that the Respondent No.1 filed an affidavit of evidence in November, 2017, however, failed to appear for the cross-examination on 4 dates, pursuant to which, the applicant filed an application under Order 9, Rule 8 of the Code of Civil Procedure, for dismissal of the suit. The said application was partly allowed by the learned Judge and the evidence of the Respondent No.1 was discarded. Being aggrieved by the said order, the aforesaid application has been filed by the applicant. It appears that pursuant thereto, the Respondent No.1 filed an application (Exhibit – 36), for setting aside the order dated 25th June, 2019, which application was allowed by the learned Civil Judge Senior Division, Solapur, vide order dated 24th July, 2019 and the order by which the evidence of the Respondent No.1 was discarded was recalled.

4. *Prima facie*, no infirmity can be found in the impugned orders.

5. The Application is accordingly dismissed. Hearing of the suit is expedited. The trial Court to decide the Regular Civil Suit No. 596 of 2016, on its own merits, in accordance with law. All contentions of all the parties are kept open.

6. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.