

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2153/2019

(BHANUMATI AMRUTLAL SHAH (D) THR. LR GAUTAM AMRUTLAL SHAH **VERSUS** M/S DILIP
 SCOOTER HOUSE)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R.M. Sharma, counsel for petitioner.

CORAM : A.S. CHANDURKAR, J.

DATE : MARCH 18, 2019.

Challenge in this writ petition is to the order passed below Exhibit 111 permitting the defendant to lead evidence after setting aside an earlier order dated 06.08.2018 closing the side of the defendant.

It is submitted by the learned counsel for the petitioner that the eviction of the defendant has been sought on the ground of *bona fide* need as well as for change of the user of the suit premises. Though the suit was filed in the year 2010, it is being prolonged by the defendant on one pretext or the other. Hence, the trial Court was not justified in permitting the defendant to lead evidence.

Heard learned counsel for the petitioner. The trial Court in the light of the fact that the side of the defendants was closed on 06.08.2018 has granted permission to the defendant to lead evidence by setting aside that order and by imposing costs on the defendant. Considering the discretionary nature of the order, I am not inclined to interfere in writ jurisdiction. It is however seen that the suit in question was filed in the year 2010 and one of the grounds for eviction is *bona fide* need of the plaintiff. In that view of the matter, the proceedings in Regular Civil Suit No.35 of 2010 are expedited and the trial Court shall decide the same on its own merits in accordance with law by the end of September-2019.

Writ petition is disposed of in aforesaid terms. No costs.

JUDGE

APTE