

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5777/2019

Vyankatesh S/o Kshirsagar Wasnik
..Vs..
Pandhari S/o Kshirsagar Wasnik, and others

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

Court's or Judge's orders

Shri M.P. Kariya, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.

DATED : 20.8.2019.

Heard.

2] Because of the lapse on the part of the defendant to adduce evidence, trial Court passed an order on 2nd April, 2019 that the civil suit to proceed without evidence of defendant. The defendant had filed an application on 17th April, 2019 seeking permission to recall the order dated 2nd April, 2019 and to permit the defendant to adduce evidence. This application is rejected by the impugned order dated 15th July, 2019.

3] The application dated 17th April, 2019 was filed under the signature of Advocate representing the defendant No.1. The application does not contain even signature of defendant No.1, leave apart, solemn affirmation in support of the contents of the application.

The application does not give any explanation as to why the defendant could not adduce evidence on the dates fixed for recording of evidence of witnesses of defendant. Such lapses cannot be condoned and it cannot be said that the Court has to abide by the dictates of the parties or their lawyers and grant adjournments for the asking. In the facts of the case, it cannot be said that the learned trial Judge has committed any illegality or error of jurisdiction. Hence, I see no reason to interfere with the impugned order. The writ petition is **dismissed**. No costs.

JUDGE