

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7989 OF 2019

Kishor s/o Madukarrao Upasani, Premlok Park, Chinchwad, Pune

-vs-

Harihar Ramkrushna Nimbekar, Wadgaon Road, Yavatmal

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Abhay V. Bhide, Advocate for petitioner.

CORAM : A. S. CHANDURKAR, J.

DATE : December 06, 2019

Considering the order proposed to be passed, it is not found necessary to issue notice to the respondent.

The challenge raised in the present writ petition is to the order dated 04/11/2019 passed by the trial Court below Exhibit-66 by which further opportunity to the defendant has been granted to cross-examine the plaintiff.

It is the grievance of the petitioner-plaintiff that initially on 13/10/2016 the trial Court passed an order below Exhibit-35 forfeiting the rights of the defendant to cross-examine the plaintiff. That order was set aside on 14/09/2018 by making the following order :

(1) The application Exhibit-48 is allowed and no cross order passed below Exhibit-35 on 1/10/2016 is hereby set aside subject to cost of Rs.500/- which will be paid to plaintiff on or before next date without fail.

(2) The plaintiff Kishor Madhukarrao Upasani is accordingly directed to remain present on next date for the purpose of cross-examination without fail.

(3) Considering age and stage of the suit, parties are directed to proceed with the suit on top priority.

Despite that order, the plaintiff was not cross-examined though he was always present in Court for cross-examination. Adjournment was again sought by the defendant by moving an application at Exhibit-66 on which the trial Court again granted time by way of last chance.

Considering the fact that the trial Court has exercised discretion by granting last chance to the defendant to cross-examine the plaintiff, I am not inclined to interfere with that order.

The grievance is however made on behalf of the petitioner that despite earlier orders passed in the suit, the plaintiff is not being cross-examined and the proceedings are being adjourned unnecessarily. He therefore submits that the proceedings before the trial Court deserve to be expedited.

The observations made by the trial Court while deciding application at Exhibit-48 clearly indicate that the trial Court was conscious of the fact that the suit was required to be proceeded with on priority. Despite passage of more than one year from that order the position as was then continues to exist. Thus while maintaining the order dated 04/11/2019, the trial Court shall ensure that the proceedings are not unnecessarily adjourned. It shall take necessary steps to decide the suit finally by the end of April 2020. With these directions the writ petition is disposed of. No costs.

JUDGE