

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

954 WRIT PETITION NO.4518 OF 2019

TATYARAO VITHOBA JADHAV AND OTHERS
VERSUS
HIRKANBAI SAMBHAJI INGALE AND OTHERS

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Advocate for Petitioners : Mr. Kokad Amol A.
Advocate for Respondent No.1 : Ms. M.S.Mhase i/b Lex Aquila.

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CORAM : V. K. JADHAV, J.
DATE : 21.01.2020

PER COURT :-

1. Heard finally with consent at admission stage.
2. This Writ Petition challenges the order passed below Exh.294 by the Trial Court setting aside the evidence close order passed against the respondent-plaintiff. It appears that the respondent-plaintiff is 85 years old lady. She is suffering from various old age diseases and she is almost bed ridden and unable to walk. According to the respondent-plaintiff, she could not remain present in the Court and lead evidence and due to her absence, the evidence close order came to be passed. The matter is in respect of the immovable property. She has given Power of Attorney to her son, who will depose

on behalf of her. Though the learned counsel for the petitioners has raised the objection about the competency of Power of Attorney to depose on behalf of respondent-plaintiff, however, it is for the petitioners-defendants to raise all the available grounds at the time of final hearing of the suit. I do not find any fault in the order passed by the Trial Court setting aside the evidence close order passed against the respondent-plaintiff subject to the costs of Rs.100/-. Hence, I proceed to pass the following order :

ORDER

1. Writ Petition is hereby dismissed and disposed off accordingly.

(V. K. JADHAV, J.)

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vmk/-