

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

949 WRIT PETITION NO.10025 OF 2019

**NANDABAI SANTOSH JADHAV AND ANR
VERSUS
SOMINATH KACHRU DABKE**

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Advocate for Petitioners : Mr. Garud V. B.
Advocate for Respondent : Mr. Karpe Rahul R.

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**CORAM : V. K. JADHAV, J.
DATE : 14.01.2020**

PER COURT :-

1. Heard both the sides. It appears that on the very second date for leading the evidence, the Trial Court closed the evidence of the petitioner-plaintiff as the advocate representing the petitioner-plaintiff was absent. The petitioner-plaintiff has filed an application Exh.47 contending therein that his counsel was not in a position to attend the court date due to his ailment and the petitioner-plaintiff who is serving as a teacher could not attend the court date as his leave was not granted. However, the Trial Court has rejected the said application Exh.47 by impugned order dated 27.11.2018.

2. The suit is instituted for re-conveyance of the sale deed and decree of perpetual injunction in respect of the immovable property. The learned counsel for the respondent has not resisted the Writ Petition and submitted that this petition may be allowed by awarding the costs. However, the learned counsel submits that the Trial Court may be directed to expedite the suit and dispose it off at the earliest. Thus, considering the entire aspect of the case, this writ petition can be allowed by setting aside the order passed by the Trial Court below Exh.47 subject to the costs.

3. Hence, I proceed to pass the following order :

ORDER

- (I) The Writ Petition is hereby allowed.
- (II) Impugned order dated 27.11.2018 passed below Exh.47 in Regular Civil Suit No.138 of 2015 is hereby quashed and set aside.
- (III) Application Exh.47 is allowed in terms of its prayer clause subject to costs of Rs.5,000/- (Rupees Five Thousand only) to be paid by the

petitioner-plaintiff to the defendant within two weeks from the date of this order.

(IV) The Trial Court is hereby directed to dispose off the suit, as expeditiously as possible, preferably within a period of six months from the date of this order.

(V) The Writ Petition is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-