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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7370 OF 2019

M/s. Golden Touch Development Pvt. Ltd.
Through its Director – Satvinder Singh Karla ...Petitioner
Versus
Sambhaji Kondiba Dhangekar (deceased)
through his legal heirs
1a. Suman Sambhaji Dangekar
1b. Dattatray Sambhaji Dangekar ...Respondents

Mr. P. S. Dani, Senior Counsel a/w Ms. M. S. Parasnis, for the Petitioner.
Mr. S. C. Wakankar, for the Respondents.

CORAM : REVATI MOHITE DERE, J.

DATE : 14th JANUARY, 2020

P.C. :

1. At the outset, learned counsel for the petitioner (original plaintiff) has tendered a copy of the impugned order dated 22nd March, 2019, by which the learned Judge was pleased to close the plaintiff's evidence. The said order is taken on record.

2. The petitioner is the original plaintiff who has filed a Suit being Special Civil Suit No.433 of 2012 (earlier numbered as 1807 of 1996) for Specific Performance of the Agreement for Sale, in the Court of the learned Civil Judge, Senior Division, Pune. It appears that the petitioner's (original plaintiff) witness i.e. the concerned Accountant was in the witness-

box and was being cross-examined with regard to the Books of Account of the plaintiff's company, where there was a reference of payment of Rs.25,000/-. It is at this stage that the petitioner filed an application (Exhibit – 166) and sought adjournment for producing certain documents. The learned Judge was pleased to reject the said application for adjournment on the ground that the matter was more than 20 years old and that no ground for adjournment was made out. Pursuant thereto, the learned Judge on the very day i.e. 22nd March, 2019, passed the following order, which is impugned in the present petition:

22/03/2019

“Matter is more than 20 years old. Plf is prolonging the matter on this and that reasons. Hence evidence of Plf's side is hereby closed.”

3. Learned Senior Counsel for the Petitioner submits that the petitioner wanted to bring on record necessary documents with regard to the payment of Rs.25,000/-, as it was germane to the Suit in question. He submits that having regard to the same, the learned Judge ought to have allowed the petitioner (original plaintiff) to bring the necessary documents on record to substantiate the payment of Rs.25,000/-.

4. Learned Counsel for the Respondents opposed the petition and

submitted that no interference was warranted in the impugned order.

5. Perused the papers as well as the impugned order. The Suit is of the year 1996. After the written statement was filed, issues were framed. Thereafter, the petitioner's witness i.e. the concerned Accountant stepped in the witness-box. During the cross-examination of the petitioner's witness with regard to payment of Rs.25,000/-, the petitioner's advocate filed an application and sought adjournment on the premise that the said witness wanted to produce certain documents to substantiate the payment of Rs.25,000/-, towards the suit property. The learned Judge after observing that the case was more than 20 years, closed the evidence of the said witness by passing the aforesaid order which is impugned in the present petition.

6. Learned Senior Counsel for the Petitioner assures that the Petitioner will not seek any adjournment in the trial Court and that the petitioner's witness i.e. the concerned Accountant will appear before the learned Judge on the dates given by the learned Judge. He further states that except the said witness i.e. the concerned Accountant, no other witness will be examined by the petitioner. It appears that the defendant has also examined his witness and the matter is posted for final arguments. It also

appears that the petitioner has produced the said documents, which have been taken on record by the learned Judge.

7. No doubt the case is an old case, however, in the facts, it would be necessary to bring the payment on record. Hence, the impugned order dated 22nd March, 2019, is quashed and set aside, subject to payment of costs of Rs.25,000/- to the Respondents, within two weeks from today. The parties to appear before the trial Court on 28th January, 2020, after which, the learned Judge will give dates for examination of the petitioner's witness i.e. concerned Accountant, only on this aspect. Needless to state, that the Respondents – Defendant will be at liberty to cross-examine the petitioner and if necessary lead further evidence, only with respect to the documents brought on record. After the said evidence is led, the learned Judge to proceed with the final arguments in the case.

8. Petition is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.