

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12052 OF 2021

**(Nizimuddin Siddique Ahmed Siddique through Power of Attorney
Siddique Sayem Sabil Nizimuddin Siddiquie Vs. Mohd. Matin Mohd.
Osman Died through L.Rs. Husnu Banu Mohd. Matin and others)**

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Mr. N.D. Kendre, Advocate holding for Mr. Santosh C. Bhosle,
Advocate for the petitioner

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CORAM : MANGESH S. PATIL, J.

DATE : 28.10.2021

PER COURT :

Heard.

2. This is yet another example as to how the litigant can protract the litigation mischievously.

3. The petitioner is defending a money suit. The evidence of the respondent/plaintiff was closed in the year 2016. Since thereafter, he never turned up to the court and the trial court had to direct that there would be no evidence on his behalf. Even such an order was passed in February, 2020. The suit was posted for hearing final arguments. His Advocate sought adjournment for submitting the arguments and it is at that stage that the application was filed by the petitioner seeking appointment of a Court Commissioner to record his testimony.

4. One need not delve deep. The aforementioned facts and circumstances are eloquent enough to demonstrate the mala fides on the part of the petitioner to delay the decision. Even with this application, he did not produce any medical record to demonstrate his physical incapacity to grace the witness box. Having noticed all these facts and circumstances, the trial court has rejected his application (Exh-131) for the right reasons.

5. There is no merit in the writ petition. It is dismissed with costs of Rs.5000/- to be deposited by the petitioner in the trial court within two weeks. The respondent/plaintiff shall be entitled to withdraw the amount of costs.

[MANGESH S. PATIL]
JUDGE