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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2764 OF 2018**

Shri Ratan Mohanlal Makhija	Petitioner
V/s	
Shri Bhajanlal K. Makhija	Respondent

Mr. Vijay Killedar for the Petitioner.
Mr. Rupesh A. Zade for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 31, 2021

P.C.:-

1] In a summary suit No.13 of 2017 pending on the file of Civil Judge, Senior Division, Kalyan, Petitioner/Defendant took out application under Order 37 Rule 3 seeking unconditional leave to defend, thereby trying to demonstrate strong defensible case. Prayer was objected vide reply dated 8th January, 2018 by Respondent/Plaintiff. When the matter was fixed for hearing on 5th February, 2018, Petitioner took out application for adjournment due to personal difficulty of a lawyer representing his interest. Prayer of the Petitioner for adjournment came to be rejected so also application for leave to defend. As such, this Petition questioning the orders passed below Exhibits-20 and 21. Exhibit-21 is an application taken

out by the Respondent/Plaintiff for rejection of Exhibit-17 moved under Order 37 Rule 3 of the Civil Procedure Code, seeking unconditional leave to defend.

2] I have perused both these orders i.e. one passed under Exhibit-20 and other under Exhibit-21. Both these orders are non-speaking orders as no reasons are given. Though Counsel for the Respondent/Plaintiff has strenuously tried to support the orders impugned, it is required to be noted that once the adjournment is sought by the Petitioner/Defendant on personal ground that too without any antecedent of repeated adjournments, least that was expected of the Court below was to grant one accommodation by way of last chance. Apart from above, rejection of Application-Exhibit-17 wherein prayer for grant of unconditional leave to defend was moved by virtue of order passed below Exhibit-21, is also a non-speaking order as no reasons are furnished. That being so, both these orders i.e. one passed below Exhibit-20, the application for adjournment, thereby rejecting prayer for adjournment and Application-Exhibit-21 wherein prayer is moved by the Respondent/Plaintiff for rejection of the Application-Exhibit-17 are hereby quashed and set aside.

3] Application-Exhibit-20 as such stands allowed, whereas Application-Exhibit-21 stands rejected.

4] Assurance given by the Petitioner that he shall, in any case, argue his application Exhibit-17 on the next date of hearing is recorded as an undertaking to this Court. Trial Court is directed to decide Application-Exhibit-17 on its merits expeditiously.

5] Petition stands allowed in the above terms.

(NITIN W. SAMBRE, J.)