

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.9665 OF 2017**

Sudhakar Bhojaya Shetty

...Petitioner

vs.

The State of Maharashtra and Anr.

...Respondents

None for the Petitioner

Mr. V.S. Nimbalkar, AGP for Respondent No. 1.

Mr. C.C. Agrawal, for the Respondent No. 2.

**CORAM : N. J. JAMADAR, J.**

**DATE : JUNE 25, 2021**

**P.C.:**

. None for the petitioner.

2. Mr. Chetan Agrawal, learned counsel for Respondent No. 2 submits that during the pendency of this petition, which assails an order passed by the learned Civil Judge Senior Division, Vasai on an application (Exhibit 114), whereby the prayer of the plaintiff seeking direction to the defendant to lead evidence on the preliminary issue regarding jurisdiction of the Civil Court to entertain, try and adjudicate the claim for perpetual injunction against Respondent No. 2- original defendant, came to be rejected, the parties have led evidence in the suit on all the issues.

3. The learned counsel, on instructions, submits that the recording of evidence is complete and the parties have also

tendered the notes of argument.

4. Evidently, the challenge in this petition is to an order whereby the prayer of the petitioner to direct Respondent No.2/defendant to begin the case qua preliminary issue on jurisdiction, was turned down. Since, the parties have reportedly led evidence on all the issues in the suit, the petition does not survive.

5. Hence, the petition stands disposed of.

6. It is, however, made clear that in the event, the facts turn out to be otherwise, in respect of leading evidence in the suit, the petitioner shall have liberty to seek restoration of this petition.

**(N. J. JAMADAR, J.)**