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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.98 OF 2021

Jagdish s/o Meghajibhai Seth,
Aged about 68 years, occupation Nil,
R/o “Ram Kunj”, Shrawagi Plot,
Akola, taluka and district Akola. **Petitioner.**

:: VERSUS ::

Prashant s/o Laxminarayan Jaiswal,
Aged about 40 years, occupation business,
R/o Shrawagi Plot, near Tower,
Umari Road, Akola taluka and district Akola. **Respondent.**

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Shri D.R.Goenka, Counsel for the Petitioner.
Shri N.L.Jaiswal, Counsel for the Respondent.
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CORAM : V.M.DESHPANDE, J.
DATE : JANUARY 19, 2021

ORAL JUDGMENT

1. Heard learned counsel Shri D.R.Goenka for the petitioner and learned counsel Shri N.L.Jaiswal for the respondent.

Rule. Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

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2. This writ petition arises out of order passed by learned Civil Judge Senior Division at Akola dated 3.3.2020 passed below Exhibit-132 in Small Cause Suit No.9/2013. By the said, learned Judge below rejected application filed on behalf of the petitioner for issuing witness summons to the personnel from Akola Municipal Corporation.

3. The petitioner herein is a tenant and the respondent is a landlord. In the year 2013, a suit for eviction, possession and recovery of arrears of rent was filed. The suit is being contested by the petitioner. The plaintiff completed his evidence. Thereafter, defendant entered into witness box. His evidence was also recorded.

4. On 3.3.2020, the petitioner filed an application for issuing witness summons to the Superintendent of Property Tax, Municipal Corporation, Akola because according to the petitioner his evidence would be relevant to decide issue about who will suffer hardship if decree of eviction is granted. The said application was rejected only on a ground that list of witnesses is not filed.

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5. It is submission of learned counsel Shri D.R.Goenka for the petitioner that except the Superintendent of Property Tax, Municipal Corporation, Akola he does not wish to examine any other witness in this matter. His statement is accepted.

6. Learned counsel Shri N.L.Jaiswal for the respondent landlord, on instructions from the respondent, makes a submission before this Court that he has no objection if the application is granted by this Court. However, he submits that suit is waiting verdict from 2013 and, therefore, it is his submission that trial be expedited.

7. In view of objection given by learned counsel Shri N.L.Jaiswal for the respondent, this writ petition can be disposed of with some directions. Hence, following order is passed:

ORDER

(1) The order passed by learned Civil Judge Senior Division at Akola dated 3.3.2020 passed below Exhibit-132 in Small Cause Suit No.9/2013 is hereby quashed and set aside.

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(2) Application Exhibit-132 filed by the petitioner is hereby allowed.

(3) The petitioner is directed to complete all ministerial acts of taking summons for witness to the Superintendent of Property Tax, Municipal Corporation, Akola by 25.1.2021.

(4) The Trial Court shall direct the Superintendent of Property Tax, Municipal Corporation, Akola that he/she shall remain present in the Court on 28.1.2021 along with property tax assessment record and tax receipts etc. as claimed in Exhibit-132.

(5) The petitioner is directed to examine the said witness on 28.1.2021 positively without giving any excuses.

(6) Learned Civil Judge Senior Division at Akola is hereby directed to dispose of Small Cause Suit No.9/2013 pending on its file by 10.3.2021 the said being old one.

(7) The petitioner is directed to extend full cooperation to learned Judge below for expeditious disposal and shall not file applications for adjournment.

.....5/-

Judgment

wp98.21 10

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(8) The petitioner is directed to appear before the Court below on
22.1.2021.

JUDGE

!! BRW !!

...../-