

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 10820 OF 2021

Kallinath s/o Shivyogi Dhang,
Age : 73 years, Occu. Pensioner,
R/o. Sonar Galli, Murum
Tq. Omerga, District Osmanabad.

...Petitioner

Versus

1. Rajendra @ Apparao Madhukarrao Vedpathak,
Age : 48 years, Occu. Business,
R/o. Sonar Galli, Murum,
Tq. Omerga, District Osmanabad.
2. Dhanappa @ Baburao s/o Siddhappa Shahane,
Age : 69 years, Occu. Business,
R/o. 6, Gokulnagar Jule, Near Solapur Water Tank,
Solapur, Tq. & Dist. Solapur.
3. The Chief Officer,
Municipal Council, Murum,
Tq. Omerga, District Osmanabad.

...Respondents

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Mr. Abasaheb D. Shinde, Advocate for the petitioner
Mr. S. N. Patne, Advocate for respondent no. 2
Respondents no. 1 and 3 served

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**CORAM : PRITHVIRAJ K. CHAVAN, J.
DATE : APRIL 8TH, 2022**

ORAL JUDGMENT : -

1. Rule. Rule returnable forthwith. Heard finally with the consent of the learned counsel for the petitioner and respondent no.2.

2. Despite service, none for respondent nos. 1 and 3 who are, in fact formal parties. A short question which needs to be determined is, as to whether the impugned order dated 30.08.2021 passed by the Civil Judge Junior Division, by which an application tendered by the petitioner-original plaintiff seeking permission of the court to conduct the suit in-person came to be rejected, will sustain.

3. It is needless to go into the factual matrix, however, it is apparent from the application moved by the petitioner before the trial Court that in view of his long standing experience of conducting various matters before various courts including this court, he sought permission to conduct the suit in-person. The learned Judge, in his wisdom, in the impugned order, observed that since the matter is time bound by this court and the petitioner is unnecessarily seeking adjournments by filing several applications, he would not be in a position to abide by the directions issued by this court. On this sole ground the application came to be rejected.

4. The order, *prima facie*, will not sustain in the eyes of law for the simple reason that a Court cannot compel a party in-person to engage an advocate unless there is specific bar in conducting a matter

before any court. However, it would be expedient to direct the petitioner to expedite the trial of the suit by keeping in mind the directions issued by this court to dispose off the same in a time bound manner. The impugned order is quashed and set aside. The petitioner shall appear before the trial Court.

5. Upon petitioner's appearance, the trial Court shall proceed further in accordance with law, without granting unnecessary adjournments to any of the parties.

6. Rule is made absolute in the aforesaid terms with no order as to costs.

[PRITHVIRAJ K. CHAVAN]
JUDGE