

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

WRIT PETITION NO.10697 OF 2022

Rajesh S/o. Bansilal Shah,
Age: 50 years, Occ. Legal Practitioner,
R/o: H. No.3-14-25, CTS No.8120,
Bansi-Smruti, Pandariba Road, Aurangabad. ..Petitioner

Versus

Aurangabad Municipal Corporation,
Having its office at Town Hall,
Aurangabad Through its Commissioner ..Respondent

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Mr. Namit S. Muthiyan, Advocate for the Petitioner.
Mr. V. G. Deshmukh h/f Mr. S. S. Tope, Advocate for Respondent.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 23rd NOVEMBER, 2022.**

ORAL JUDGMENT:-

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the admission stage.

2. By this petition petitioner assails the order dated 02.08.2022 passed by the Civil Judge, Senior Division (Corporation Court), Aurangabad on application at Exhibit-89 filed in RCS No.3/2010.

3. The suit was earlier dismissed by judgment and order dated 07.01.2011. In appeal filed by plaintiff/petitioner, the District Court was pleased to remand the suit to the Trial Court for granting opportunity to both the parties to adduce additional

evidence. It appears that, after the suit was remanded, the same remained on the stage of appearance of the parties and defendant appeared in the suit on 10.08.2021. The matter was sent for sometime for examining the possibility of settlement. In the meantime, petitioner was prosecuting application for framing of additional issue. In these circumstances, it cannot be stated that plaintiff was not vigilant in prosecuting the suit. If the impugned order is allowed to stand, both plaintiff as well as defendant will not be permitted to adduce evidence which would frustrate the entire objective in remanding the suit.

4. Considering the above position, I deem it appropriate to set aside the order dated 02.08.2022 passed by Civil Judge, Senior Division (Corporation Court), Aurangabad and allow the application filed by petitioner/plaintiff at Exhibit-89. Both plaintiff and defendant to adduce additional evidence in an expeditious manner so as to enable the Trial Court to decide the suit finally and preferably within six months from today.

5. Writ Petition is allowed. Rule made absolute in above terms.

(SANDEEP V. MARNE)
JUDGE