

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8141 OF 2019

Shri Mahadeo Rama Jadhav
Decd. Through LHRS

..... Petitioner

Vs.

Dhondi Rama Jadhav Decd.
LHRS

....Respondents

....

Mr. P.M.Arjunwadkar for the Petitioner.
None for Respondents.

CORAM: SANDEEP K. SHINDE, J.

DATED : AUGUST 29, 2022

P.C.

1. On 22nd February, 2019, the learned Civil Judge, Senior Division, Karad passed “No Cross” order, whereby declined Petitioner/Plaintiff to cross-examine defendants’ witness. Whereafter by the impugned order dated 12th March, 2019, the learned Judge refused to set aside the order dated 22nd February, 2019. Thus, this Petition.

2. Heard Mr. Arjunwadkar, learned counsel for the Petitioner. I am not inclined to interfere with the impugned order for following reasons;

. Suit in question was instituted by the Petitioner in the year 1980. Roznama/proceedings show that defendant had filed

his examination-in-chief in October, 2018. Thereafter although defendant's witness remained present, he was not cross-examined by the plaintiff's advocate. On 22nd November, 2018, the learned Trial Court directed plaintiff to cross-examine defendant's witness. Whereafter, witness was partly cross-examined and was carried over. On the deferred date, plaintiff's advocate remained absent. In consequence, on 3rd January, 2019, the learned Judge passed 'No Cross' order. However, in the interest of justice, at the request of the plaintiff that order was set aside. After which defendant's witness was cross-examined on 4th, 7th, 29th and 30th January, 2019 and carried over to 2nd February, 2019. On that date, advocate for the plaintiff remained absent. As a consequence, trial Court passed 'No Cross' order on 22nd February, 2019. On 12th March, 2019, plaintiff moved an application, requesting the trial Court to set aside 'No Cross' order dated 22nd February, 2019. Request of the plaintiff was turned down, which culminated into the impugned order dated 12th March, 2019.

3. In consideration of the facts stated above, Petitioners do not deserve sympathy as they have taken trial Court for ride repeatedly. In fact, plaintiff's right to cross-examine, was

forfeited once but the order was called in the interest of justice, with the hope that the plaintiff would conduct the trial by remaining present on each date. However, plaintiff chose to remain absent and delayed the trial. Thus, the trial Court was justified in forfeiting plaintiff's right to cross-examine defendant's witness, in the suit pending over more than forty years.

4. For all these reasons, petition deserves no consideration. It is dismissed.

(SANDEEP K. SHINDE J.)