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

**CIVIL APPELLATE JURISDICTION**

**CIVIL WRIT PETITION NO. 966 OF 2022**

DAULAT AGRO PVT. LTD. THR ITS  
DIRECTOR

....PETITIONER

V/s.

M/S. D S SABALE AND ASSOCIATES

....RESPONDENT

Mr. Rushikesh S. Kale Advocate for the Petitioner

**CORAM : NITIN W. SAMBRE, J.**

**DATE: MARCH 14, 2022.**

**P.C.:**

1) Though served none appears for Respondent-Plaintiff. Application Exh. 203 moved by Petitioner-Defendant for setting aside 'No cross' order was rejected on 11/10/2021.

2) It is the claimed that since counsel for Defendant was not available, matter could not be conducted on the day when the suit was ordered to be proceeded without cross-examination. Fact remains that after the affidavit of Plaintiff vide his examination-in-chief on 07/12/2018, the Trial Court has observed that at the behest

of Petitioner-Plaintiff, trial was adjourned for almost 12 times. This non-cooperative attitude on the part of Petitioner-Defendant is deprecated.

3) In addition to cost of Rs. 5000/- which is deposited, the Petitioner shall deposit cost of Rs. 10,000/- before the Trial Court within period of 4 weeks from today, to which Petitioner will be entitled to withdraw.

4) Petitioner-Defendant shall forthwith conduct the examination of the Plaintiff and complete the same in one sitting. Subject to above, order impugned dated 11/10/2021 ordering no-cross passed under Exh. 203 is quashed and set aside.

5) If the Petitioner-Defendant fails to deposit the Cost or complete the recording of evidence as observed herein above, the Trial Court will be at liberty to pass appropriate order against the Petitioner-Defendant.

6) Petition stands allowed in the above terms.

**[NITIN W. SAMBRE, J.]**