

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.706 OF 2023**

**SHARDUL SHAMPRASAD DEV
VERSUS
MANJIRI SHARDUL DEV AND OTHERS**

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Mr. Rajendrraa Deshmukh, Senior Advocate i/by Mr. Sanket Kulkarni, Advocate for the Petitioner.

Mr. L. V. Sangit h/f Mrs. M. L. Sangit, Advocate for the Respondent No.1.

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**CORAM : SHARMILA U. DESHMUKH, J.
DATED : 24th JANUARY, 2023.**

FINAL ORDER:-

1. By this petition, petitioner challenges the order dated 09.01.2023 filed in Miscellaneous Civil Application No.3/2020. By the impugned order the Trial Court has rejected the affidavit in lieu of examination-in-chief filed by the petitioner as the defence of the petitioner had been struck off by order dated 21.09.2022.

2. Heard Mr. Deshmukh, learned senior counsel for the petitioner and Mr. Sangit, learned counsel for respondent no.1.

3. By order dated 21.09.2022 , the defence of the petitioner has been struck off and affidavit of evidence is sought to be filed on the ground that the petitioner has right to adduce evidence as per the provisions of Section 13 of the Guardians and Wards Act.

4. As the defence of the petitioner has been struck off, there is no question of permitting the petitioner to adduce evidence. The petitioner can participate in the proceedings to the

extent of cross-examining the witnesses for respondent no.1, but has no independent authority to adduce the evidence.

5. Reliance of the petitioner on the provisions of Section 13 of the Guardians and Wards Act is misplaced, as the said provision provides an opportunity for being heard to the parties to the application. However, in the present case, the defence having been struck off, the petitioner has no right to adduce evidence.

6. For the reasons stated above, writ petition is devoid of merits and is accordingly dismissed.

(SHARMILA U. DESHMUKH)
JUDGE

Devendra/January-2023