

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1273 OF 2023

Suhas s/o Anantrao Dashrathe
& another

Petitioners

Versus

Smt. Nafeesa d/o Abdullahbhai Buquari

Respondent

Mr. B.L. Sagar, Advocate for the petitioners
Mr. N. S. Muthiya, Advocate for respondent.

CORAM : R. M. JOSHI, J.

DATE : 12th SEPTEMBER, 2023.

PER COURT :

1. Learned counsel for petitioners submits that even without going into the merits of the case, only for the purpose of giving last opportunity to the petitioners to examine witness Sharad Bhour, the petition be allowed. According to him, there is no dispute about the fact that examination of the said witness is relevant for the decision of the case. He further states that the next date of hearing is tomorrow before the learned Trial Court and that the petitioners shall produce the said witness before the learned Trial Court. Evidence of this witness shall be concluded in any circumstance tomorrow itself. Learned counsel for petitioners further makes a

statement, on instructions, that if he fails to produce witness before the Court he shall waive his right to examine the witness.

2. Learned counsel for the respondent is justified to oppose grant of relief to the petitioners, having regard to the age of the respondent and the delay caused by the petitioners for the disposal of the proceeding.

3. Since there is no dispute about the relevancy of the witness and as the application for examination of the said witness has been rejected on the sole ground of the dilatory tactics adopted by the petitioners, if appropriate care can be taken to ensure that the examination of this witness will not lead to further delay in the proceeding, then in that case, the interest of justice requires that a final opportunity is given for examination of that witness. The aforesaid undertaking given by learned counsel for the petitioners is more than sufficient to take care of the grievance of the respondent.

4. In view of above, the learned Trial Court is directed to allow petitioners to examine witness Sharad Bhour, tomorrow i.e. on 13th September, 2023. The examination in chief and cross

examination of this witness must be completed tomorrow itself. It is clarified that for any reason whatsoever, if petitioners fail to produce witness before the Court tomorrow, their right to examine the witness shall stand forfeited. The witness shall remain present at 11.00 am sharp before the learned Trial Court and the learned Trial Court to record evidence of this witness first before conducting any other business.

5. Petition stands disposed of in above terms.
6. Parties to act upon authenticated copy of this order.

(R. M. JOSHI)
Judge

dyb