

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

**WRIT PETITION NO. 12437 OF 2023
WITH
CIVIL APPLICATION NO. 13668 OF 2023**

Dilip Jagannath Bayad .. Petitioner

Versus

Ashok Bansilal Bora and another .. Respondents

Shri Ajinkya A. Joshi, Advocate h/f Shri Sharad V. Natu, for the
Petitioner.

Shri Satyajit S. Bora, Advocate for the Respondent Nos. 1 and 2.

**CORAM : SHAILESH P. BRAHME, JJ.
DATE : 07TH NOVEMBER, 2023.**

FINAL ORDER :

. Heard learned counsel for both the sides.

2. The petitioner is original plaintiff who is prosecuting Spl. C. S. No. 65 of 2021 for specific performance of contract. He submitted an application Exhibit 23 for referring photo copy of agreement for impounding. It was objected by the respondents. However, application at Exhibit 23 could not be prosecuted and by order dated 26.07.2023 it was rejected for want of prosecution. The same is under challenge in the present petition.

3. The learned counsel for the petitioner has filed civil application seeking amendment. Instead of allowing the

application, I have considered the proposed amendment.

4. The learned counsel for the respondents opposed the submissions of the learned counsel for the petitioner.

5. Considering the controversy involved in the petition and in the interest of justice, it is desirable to restore the application Exhibit 23 and relegate the parties to the Trial Court.

6. The writ petition is disposed of by quashing the order dated 26.07.2023 passed below Exhibit 23 and application Exhibit 23 is restored. The same shall be considered by following due procedure of law. The civil application also stands disposed of.

7. The learned Trial Judge is expected to decide the suit expeditiously and preferably within a period of one year from today.

[SHAILESH P. BRAHME, J.]

bsb/Nov. 23