



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 WRIT PETITION NO. 13830 OF 2024

ASHOK PRABHAKAR VIBHUTE
VERSUS
PRABHAKAR TATYA VIBHUTE DIED THROUGH LRS KAUSALYABAI
PRABHAKAR VIBHUTE AND OTHERS

.....

Mr. Mahesh P. Kale, Advocate for the Petitioner
Mr. S. B. Jadhav, AGP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 18th DECEMBER, 2024

PER COURT :-

1. Heard.
2. This petition takes exception to order passed below exhibit 119 in Spl. Civil Suit No. 7 of 2012 rejecting application filed by the plaintiff for setting aside order dated 22/08/2024 closing his evidence.
3. Perusal of the impugned order shows that the defendants did not file say to the said application and hence, the application proceeded without their say. This indicates that defendants were not interested in opposing the said application nor they can be said to be interested in opposing in this petition, hence, notice to the respondents/original defendants stands dispensed with.
4. Perusal of the record indicates that the evidence of plaintiff

has commenced in the year 2023. Orders were passed against defendant nos. 1/4 and 2 to proceed without their cross-examination.

5. Learned counsel for the petitioner submits that immediately after order of closing his evidence is passed, present application Exhibit 119 was moved.

6. Learned counsel for the petitioner, on instructions, volunteers pay cost of Rs.5,000/- to the High Court Bar Association.

7. Having regard to the afore stated facts and in the interest of justice, the impugned order is set aside. Application Exhibit 119 stands allowed. The petitioner/plaintiff is directed to remain present before the Trial Court on the next date of hearing. If he fails to appear before the Trial Court on the next date of hearing, it shall be open for the Trial Court to pass any further appropriate order in accordance with law.

8. This petition is disposed of in above terms.

9. Parties to act upon authenticated copy of this order.

(R. M. JOSHI, J.)

ssp