

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.14366 of 2024

Bhairvnath Sugar Work Ltd. And others ... Petitioners
V/s.
Mitali Industries ... Respondents.

Mr. Dipak Shinde	Advocate for the Petitioners
None for the Respondents.	

CORAM : S.M. MODAK, J

DATE : 26 November 2024.

P.C. :

Heard learned Advocate for the petitioners-defendants.

2. In the Commercial Suit filed before the Court of Civil Judge, Senior Division, Sangli pleadings are over. Plaintiff has also filed an affidavit of examination-in-chief (Page-12). On the date fixed defendant has not cross-examined the plaintiff. The trial Court has passed 'no cross' order on 16 August 2023. In order to give an opportunity to the defendant, the trial Court has set aside the said order on 13 December 2023. Cost of Rs.1000/- was imposed.

3. Till 29 August 2024 plaintiff was not cross-examined. It is submitted that the matter was referred to mediation, however, it was unsuccessful. When the suit was fixed lastly for cross-examination, the learned Advocate for the defendant was not present and

adjournment was sought vide application of the same date. **Two reasons were quoted** the blood pressure of the learned Advocate appearing for the defendant has shoot up and there was a marriage in the family of the learned advocate.

4. **The trial Court allowed adjournment subject to cost of Rs.10,000/-.** Two reasons were quoted; Firstly, medical certificate was not filed which is disputed. Copy of the medical certificate and the marriage invitation card are on Page Nos.34 and 35. **I trust the finding of the trial Court that the certificate is not filed.** Secondly, trial Court observed that program was fixed in advance.

5. It is submitted that trial Court has issued oral directions for early disposal of the suit. If the program is fixed then the defendant ought to have secured the presence of his Advocate. Ultimately, the Court must have adjusted the baord on that day. The learned Advocate assures that on 17 December 2024 he will cross-examine the plaintiff if permitted. Even he is ready for early disposal of the suit provided some reasonable time is fixed.

6. There is a separate procedure for trial of a commercial suit. Parties need to adhere to that special procedure.

7. In view of that the petition can be finally disposed of without issuing a notice. This Court feels Rs,10,000/- is a harsh amount. Hence, the following order is passed

ORDER

- (i) The cost imposed by the trial Court on 29 August 2024 is reduced to Rs.5000/-. It be paid to plaintiff within two weeks from today.
- (ii) The statement made that the plaintiff will be cross-examined on 17 December 2024 is accepted. If the plaintiff is not cross-examined on that date, let the trial Court to pass an order of closing of cross-examination.
- (iii) The hearing of the Suit is expedited.
- (iv) The trial Court to fix the reasonable period after hearing the parties and considering the other work load and to pass an order.

(S.M. MODAK, J.)