

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition No. 17979 of 2024

Popat Ramchandra Durge ... Petitioner
V/s.
Smt. Lila Manikrao Burse and others ... Respondents.

Mr. Yuvraj Narvankar	Advocate for the Petitioner
----------------------	-----------------------------

LATA SUNIL
PANJWANI

CORAM : S.M. MODAK, J

DATE : 18 December 2024.

Digitally signed by
LATA SUNIL
PANJWANI
Date: 2025.01.02
11:32:54 +0530

P.C. :

Considering the urgency in view of the order passed by the trial Court thereby rejecting the application of the defendant No.3 to cross-examine the plaintiff, on 11 November 2024 and considering the fact that now the suit is fixed for recording the evidence of defendant No.1, this matter is taken on board by way of a praecipe.

2. Heard learned Advocate Shri Narvankar for the petitioner-defendant No.3, also read the annexures to the petition. Respondent No.1 is the original plaintiff. He is served by way of affidavit of service. It is taken on record, marked as annexure 'X'.

3. In fact the suit was fixed for cross-examination of the plaintiff on 5 November 2024. On that day it was turn of defendant No.3. The learned Advocate representing him was not present, adjournment was sought. It was rejected by the trial Court on 5

November 2024. When defendant No.3 sought permission to cross-examine the plaintiff, it is rejected as per the order dated 11 November 2024. It is challenged in this petition.

4. The learned Judge has rejected the permission pre-dominantly for the conduct of defendant No.3. It is recorded in Para No.4. Though it is mentioned defendant No.3 sought adjournment on two occasions, according to Mr. Narvankar, it was not sought by them. Defendant No.3 also filed additional written-statement. These are some of the events which are mentioned in the impugned order. When particular Advocate was not available, another Advocate was available and he could have conducted the cross-examination. The learned Judge noted the hearing of the suit is expedited.

5. The right of the cross-examination is valuable right. The learned Judge could have granted adjournment subject to cost on 5 November 2024. Even the plaintiff in his reply on Page No.60-B alternatively has prayed for imposition of cost. When the hearing of the suit is expedited, it does not mean that rights of the parties should be curtailed without justifiable reasons. Recently, Hon'ble Supreme Court in the case of *High Court Bar Association, Allahabad vs. State of Uttar Pradesh and others*¹ has made certain observations about directions issued by Constitutional Court to expedite the hearing of the suit. Interference is warranted. It will be subject to cost. Hence, the following order:

¹ (2024) 6 Supreme Court Cases 267

ORDER

- 1) The Writ Petition is allowed.
- 2) The orders dated 5 November 2024 and 11 November 2024 passed by the Court of Civil Judge Senior Division, Jaysingpur in Regular Civil Suit No.185/2018 are set aside subject to payment of cost of Rs.3000/-.
- 3) The cost be paid within two weeks from the date of uploading of the order and it be disbursed to the plaintiff.
- 4) Subject to that defendant No.3 is at liberty to cross-examine the plaintiff.

(S.M. MODAK, J.)