



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13493 OF 2024

Saurabh Shantilal Saklecha
VERSUS
Shantilal Lalchand Sakalecha And Others

• Mr. P. D. Suryawanshi, Advocate for the Petitioner

CORAM : R.M. JOSHI, J
DATE : JANUARY 13, 2025

PER COURT :

1. Only because the parties are permitted to file proceedings, that does not mean that the process of Court can be abused in this manner.

2. This Petition challenges the order passed by the Trial Court granting adjournment to the Defendant/Respondent on medical ground. Application filed by the Defendant clearly shows that on account of hospital emergency, it was not possible to conduct cross-examination of Plaintiff's witness. In the reply filed by the Plaintiff the ground of medical emergency is not challenged. Still, application was opposed contending that Defendant is prolonging the matter. In the circumstances, learned Trial Court passed the

impugned order granting adjournment on medical ground of learned Advocate. However, time was granted as a last chance.

3. First of all, there would not be any justification for any Court to refuse adjournment if there is a genuine cause made out by the Advocate of medical emergency. Moreover, when the other side also does not dispute the genuineness of the said reason, the Court would be justified in granting such adjournment.

4. Learned Counsel for the Petitioner has attempted to draw attention of the Court to the facts of the case which according to him indicates that Defendants are trying to delay the proceedings. He drew attention of the Court to the facts that issues were framed on 12.02.2019, affidavit of evidence is filed in September, 2019 and thereafter there was order of no cross-examination against Defendants, which was subsequently recalled.

5. Whatever may be the conduct of the Defendants before the Trial Court, once medical ground is made out

by the learned Advocate for Defendants and that is found to be genuine, Trial Court was fully justified in granting adjournment. Pertinently, adjournment is granted as a last chance. In such circumstances, this Petition is nothing but an abuse of process of law. Hence, Petition stands dismissed with cost of Rs. 20,000/- payable to the High Court Bar Association, Bench at Aurangabad.

6. After this order is pronounced, learned Counsel for Petitioner, on instructions, volunteers to deposit Rs. 5,000/- as cost.

7. In view of this, amount of cost is reduced to Rs. 5,000/-.

(R. M. JOSHI, J.)