

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6955 OF 2018**

Munaf Ahmedbadshah Taral

.....Petitioner

Vs.

Ismail Sahebji Garadi, Since

Deceased Through His Legal Heirs & Ors..

.....Respondents

Mr. Utkarsh Desai i/b Mr. P. S. Bhavakar, for the Petitioner.

Mr. Kedar Lad, for Respondents.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 13th November 2025

P.C.:-

1. The present Writ Petition takes exception to order dated 28th October 2014 passed by learned Civil Judge, Junior Division, Panhala in Regular Civil Suit No.115 of 2006.

2. The Respondent/Plaintiff filed Regular Civil Suit No.115 of 2006 seeking relief of declaration and perpetual injunction. The Petitioner/Defendant filed written statement and refused claim of Plaintiff. The Trial Court framed issues and put parties to evidence. The Plaintiff closed their evidence on 23rd July 2014. The Defendant also filed his evidence affidavit and cross examination is over on 18th September 2014. The matter was fixed for further evidence on 6th

October 2014. However, it was a public holiday. Therefore, when matter was taken up on 9th October 2014, Trial Court passed order closing evidence of Defendant. The Petitioner/Defendant filed an Application below Exhibit-92 for setting aside said order. However, same has been rejected vide impugned order dated 28th October 2014. Hence, this Petition.

3. The aforesaid sequence of events would show that Plaintiff's evidence was closed on 23rd July 2014. The Defendant had already examined himself and matter was posted for further evidence. The Trial Court observing that Defendant has not filed list of witnesses, closed his evidence vide order dated 9th October 2014. Apparently, reasons given in impugned order cannot be countenanced. The Trial Court ought to have given sufficient opportunity to Defendant lead evidence. In that view of matter, impugned order cannot be sustained in law and same is accordingly quashed and set aside.

4. Parties to appear before Trial Court on 1st December 2025. The Petitioner/Defendant shall produce his witnesses, if any, and complete the same within a period of one month from date of this order.

5. The Trial Court shall finally decide suit within a period of three months from today.
6. Writ Petition stand **disposed** of in aforesaid terms.

(S. G. CHAPALGAONKAR, J.)