



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.404 of 2025

Brajesh Ashokrao Chikte

vs.

Dy. Engineer, Public Work Deptt. Sub-Division, Akot and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. V.K. Paliwal, Advocate for the Petitioner.

Mr. S.B. Bissa, A.G.P. for G. Paunikar, Advocate for Respondent Nos.1 to 3 & 5.

CORAM : **ANIL L. PANSARE, J.**

DATE : **15th APRIL, 2025.**

On 28th January, 2025, the following order was passed:

"The impugned order indicates that despite several opportunities given to the petitioner – plaintiff, he failed to adduce evidence, and accordingly, the application seeking adjournment came to be rejected. The impugned order also indicates that similar such order was passed on 18/4/2024 refusing to adjourn the matter. However, the said order was recalled by the trial Court in order to give opportunity to the petitioner to lead evidence.

2] *Thus, the approach of the trial Court appears to be considerate. The petitioner, however, is seeking adjournments before the trial Court for no good reason.*

3] *Be that as it may, to deny opportunity of leading evidence is a serious step, though, in appropriate cases, it ought to be.*

4] *Issue notice to the respondents returnable on 25/2/2025.*

5] *Mr. S.B. Bissa, learned A.G.P., waives notice for respondent nos. 1 to 3 and 5.*

6] *To show his bona fides, the petitioner shall, however, deposit amount of Rs.25,000/- within one week from today. If the amount is not deposited within one week from today, the petition shall stand dismissed for non-compliance of order.*

7] *The proceedings before the trial Court shall stand stayed on the date the amount is deposited by the petitioner.*

8] *Office objection shall be removed within two weeks from today failing which the petition shall stand dismissed without further reference to the Court.”*

02. The only argument that is advanced by the petitioner's Counsel is that the petitioner will suffer irreparable loss if an opportunity to lead evidence is not given. Learned A.G.P. as also learned Counsel for respondent No.4 submits that the order passed by the trial Court cannot be faulted with, because the petitioner himself is responsible for such order, in the sense, despite giving sufficient opportunities, he failed to lead evidence.

03. True it is that the trial Court was quite considerate in giving sufficient opportunities to the petitioner to lead evidence, however, the petitioner failed to take appropriate steps. The petitioner is blaming his Counsel for not apprising the petitioner of the correct status. This ground, however, will be of no help, as the petitioner should be equally diligent and careful to pursue the cause.

04. Nonetheless and as observed in order dated 28/01/2025, denying opportunity to lead evidence would definitely cause serious prejudice to the petitioner. The Counsel for the petitioner submits that the petitioner will not seek any adjournment before the trial Court. Thus, an assurance is given that the petitioner will diligently attend the proceedings.

05. On the basis of such assurance, it will be in the interest of justice to permit the petitioner to lead evidence, but subject to costs of Rs.25,000/- to be paid to the respondents. Order accordingly. The petitioner shall not seek adjournment unless for extraordinary reasons, that too, to the

satisfaction of the trial Court, else the petitioner shall pay costs of Rs.5,000/- each for such adjournment.

06. With the aforesaid directions, the orders dated 22/10/2024 passed below Exh.1 as also Exh.111 by the Civil Judge Senior Division, Akot in R.C.S. No.132/2018 are quashed and set aside. The parties shall appear before the trial Court on 5th May, 2025. The petitioner shall tender evidence and shall cooperate with the trial Court to decide the suit expeditiously.

07. The petition is disposed of in the above terms. The amount of Rs.25,000/- deposited by the petitioner shall be paid to the respondents equally.

(Anil L. Pansare, J.)

**sandesh*