



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

Writ Petition No. 1781 of 2025

[Arif s/o Abdul Rashid Shaikh ..vs.. Shreyash s/o Ganesh Bodhade and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M. A. Sable, Advocate for the petitioner

CORAM : ANIL L. PANSARE J.

DATED : 02-04-2025

The challenge is to order dated 13-11-2024 passed below Exhibit 53 as also order dated 20-2-2025 passed below Exhibit 55 by the Civil Judge Junior Division, Babhulgaon, District Yavatmal in Regular Civil Suit No. 9/2019.

2. By order dated 13-11-2024, the application filed by the petitioner – original defendant no. 1 to set aside order of no cross-examination passed against him came to be rejected. The petitioner then sought review of the order through application, Exhibit 55, which was also rejected.

3. Having heard learned counsel for the petitioner, it appears that on 20-2-2024, the witness of respondent nos. 1 and 2 – original plaintiffs was examined. Certain documents were marked exhibits. Neither petitioner nor his counsel was present when the matter was called. Accordingly, the trial Court proceeded to pass order of no cross-examination. The respondent nos. 1 and 2 tendered evidence closing pursis. The suit came to be adjourned to 14-3-2024. Again, none appeared for the petitioner. The matter was adjourned for evidence of petitioner on 27-3-2024. Again, none appeared for petitioner and, therefore, evidence of petitioner - defendant no. 1 as also respondent no. 3 – original defendant no. 2 came to be closed. Matter was adjourned for argument to 10-4-2024.

4. The petitioner on that day filed application to set aside the order of no cross-examination and to permit him to cross-examine the plaintiffs witness. The petitioner in his application did not justify his absence or his counsel's absence but averred that since the Court gave many opportunities to the plaintiffs, the petitioner should also get opportunity. The trial Court held that the petitioner failed to justify his absence on the relevant dates and accordingly rejected the same. Similar was the fate of review application.

5. Thus, what is apparent is that the petitioner instead of justifying his absence for three consecutive dates, has put a plea that since plaintiff was given many opportunities, the petitioner-defendant should also get such opportunities. I need not go into the aspect of the opportunities given to plaintiff in as much as the petitioner himself has pleaded that suit was filed during Covid-19 period, where the parties were precluded/compelled from attending daily activities including Court proceedings and, thus, justified the absence for those two years. What is important is whether the petitioner has justified his absence. Unfortunately, the petitioner did not even make attempt to justify the absence and, therefore, the trial Court was, in a way, compelled to reject the application. The order so passed cannot be said to be perverse or is passed without authority. No interference is, therefore, called for in writ jurisdiction under Article 227 of the Constitution. Writ petition is dismissed *in limini*. No order as to costs.

(Anil L. Pansare, J.)