



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

WRIT PETITION NO. 7923 OF 2025

(DILIP VINAYAKRAO AHIRRAO VS MANISH KIRAN DESHRAJ)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mr. Sachin W. Sambre, Advocate for appellant.

CORAM : ROHIT W. JOSHI, J.
FEBRUARY 25, 2026

- 1) The petitioner who is defendant No.1 in R.C.S.No.292/2017 pending on the file of 6th Joint Civil Judge Senior Division, Nagpur has filed the present petition in order to challenge order dated 07/10/2025, passed by the learned trial Court rejecting the application filed by him vide Exh.79 for recalling, 'no cross' order dated 20/04/2024, and 'no evidence' order dated 16/06/2025.
- 2) The plaintiff and defendant No.1 are practising advocates. The defendant No.1 has stated in the application that the parties were exploring the possibility of out of Court settlement and therefore, he did not conduct the cross-examination of the plaintiff. The defendant No.1 stated that suppressing this fact, the plaintiff obtained an order to proceed without cross-examination on 20/04/2024.
- 3) The plaintiff opposed the application denying the contention of settlement talks. The learned trial Court has rejected the application observing that the affidavit of examination-in-chief was filed by the plaintiff on 17/12/2020 and thereafter, his examination-in-chief was recorded on

12/07/2021. The learned trial Court has observed even on 22/02/2022 the defendant No.1 was absent. Learned trial Court further observed that in this backdrop, order to proceed without cross-examination of the plaintiff was passed on 20/04/2024. The plaintiff filed evidence closing pursis on 08/11/2024 and the suit was posted for evidence of the defendant thereafter. The learned trial Court observed that five dates thereafter, i.e. on 15/06/2025, the evidence of defendants was ordered to be closed and in this backdrop, the application at Exh.79 for setting aside 'no cross' order dated 20/04/2024 and 'no evidence' order dated 16/06/2025, came to be filed. The learned trial Court observed that the application was filed at a belated stage only with a view to further delay the final disposal of the suit.

- 4) The respondent though duly served, has not entered appearance. The respondent was put to notice vide order dated 12/12/2025 while issuing notice that the petition will be heard finally at admission stage. Office note dated 03/02/2026 indicates that the respondent is served by private notice. The petitioner has also filed affidavit of service dated 05/01/2026 stating that the defendant/plaintiff is duly served.
- 5) Although the order passed by the learned trial Court indicates that the petitioner/defendant No.1 was not diligent in prosecuting the suit, in the considered opinion of this Court, one chance should be granted to the defendant No.1 to conduct cross-examination of the plaintiff. In the event the said opportunity is not granted and the suit is allowed to proceed without opportunity to the defendant to lead evidence, the fate of the suit will be sealed against defendant.
- 6) In view of the aforesaid, order dated 07/10/2025 passed by the learned 6th Joint Civil Judge Senior Division,

Nagpur on application at Exh.79 in R.C.S.No.292/2017 is quashed and set aside.

7) The petitioner/defendant No.1 is permitted to conduct cross-examination of the plaintiff and to lead evidence in the matter, however, it is directed that the petitioner/defendant No.1 shall not seek any adjournment either for the purpose of conducting cross-examination of the plaintiff/respondent or any other witness/witnesses of the plaintiff/respondent, if he desires to examine any other witnesses. The petitioner/defendant No.1 shall also not seek adjournment for leading evidence in the matter.

8) Having regard to the delay, costs of Rs.15,000/- are imposed on the petitioner/defendant No.1. The costs be paid to the plaintiff/respondent on the next date of hearing before the learned trial Court. If the cost is not paid as directed, the present order shall not take effect and the order impugned shall stand revived. In the event of a single default on the part of the petitioner in following directions issued in paragraph 7, the right to conduct cross-examination or right to lead evidence shall not be available to the petitioner after that date.

(ROHIT W. JOSHI, J.)