

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

WRIT PETITION NO.569 OF 2015

[Madan s/o Sitaram Jadhav .vs. Baban s/o Deorao Kale and others]

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

Court's or Judge's orders

.....
 Shri H. Dhumale, Advocate for petitioner,
 Shri R.D. Wakode, Advocate for respondents.

CORAM : A.S. CHANDURKAR, J.

DATED : OCTOBER 24, 2016.

The original defendant in R.C.S. No.56/2002 has filed the present writ petition challenging the order dated 25.9.2014 by which permission was granted to the plaintiffs to file written statement in reply to the counter claim filed by the defendant.

Shri Wakode, learned counsel for the respondents, submits that R.C.S. No.56/2002 has been subsequently withdrawn by the plaintiffs. He further submits that the counter claim filed by the original defendant has been dismissed in default on 12.7.2016 and hence the challenge in the present writ petition is rendered infructuous.

Shri Dhumale, learned counsel for the petitioner, submits that an application for restoration of the counter claim has been filed before the trial court and the same is pending.

Considering the fact that as of today the counter claim is still not restored, it is clear that the challenge in the present writ petition has been rendered infructuous. The

writ petition is accordingly disposed of as infructuous. However, if in future the counter claim filed by the defendant is restored, the defendant would be at liberty to challenge the order passed below Exh.123, dated 25.9.2014.

JUDGE

Gulande, PA