

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

Civil Application (W) No. 2669/2017 in

Writ Petition No. 4218 of 2015

Dr. Sitaram Girdharilal Agrawal **V/s** Ratanlal Girdharilal Agrawal & 5 others

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

Court's or Judge's orders

Shri V.R. Choudhari, Advocate for Petitioner.
Shri A.J. Gilda, Advocate for Respondent No.1.

CORAM : Z.A. HAQ, J.

DATED : 27/11/2017

Writ petition No. 4218/2015 was listed before the
Court on 17/11/2017.

None appeared for the respondent, though served.
Shri V.R. Choudhari, learned Advocate for the petitioner
was heard and writ petition was disposed by order dated
17/11/2017, dictated in open Court.

Before the order could be signed, Shri A. J. Gilda
learned advocate for the respondent No.1 mentioned that
he was instructed to appear in the matter, however,
because of some inadvertent mistake on the part of his
clerk, Vakalatnama remained to be filed and the matter
was unattended. It was mentioned that he had filed civil
application praying for rehearing of the writ petition. The
advocate for the respondent was permitted to circulate
the civil application and accordingly the civil application

is listed.

Heard the learned advocates. The advocate for the respondent no.1 has submitted that the petitioner suppressed relevant fact from this Court that an application with same prayer is pending before the Trial Court. It is further submitted that as per the order passed by this Court in Appeal from Order no. 60/1986 on 3/12/1986, the respondent No.1 is having the right to lease out the property and if at all the property is to be leased out, the respondent No.1 be permitted to do so.

The advocate for the petitioner has opposed the claim made by the respondent no.1 and has submitted that the order passed by this Court in Appeal from Order No.60/86 does not uphold the entitlement of the respondent No.1 either to be in possession of the property (physical or symbolical) or to lease out the property. It is submitted that this Court had only authorized the respondent No.1 to collect the amount of rent and the respondent was directed to deposit the amount of rent of 10 months in the form of National Savings certificates, with Court.

After considering the submissions made by the learned advocates for the respective parties. I find that the order passed by this Court on 17/11/2017 is proper

and does not require any modification.

The Civil Application is disposed accordingly.

JUDGE

Nandurkar