

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.11035 OF 2019  
IN  
REVIEW APPLICATION (STAMP) NO.13442 OF 2019

WITH  
REVIEW APPLICATION (STAMP) NO.13442 OF 2019  
IN  
WRIT PETITION NO.6816 OF 2018

NAGNATH GANPATRAO SURYAWANSHI  
VERSUS  
CHAMPABAI MAROTI KOTAMBE AND OTHERS

...

Advocate for the Applicant : Shri Ashtekar R.K.  
Advocate for Respondent 1 : Shri G G Suryawanshi

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 13<sup>th</sup> September, 2019**

**Per Court:**

1 By this civil application, the applicant/ original petitioner prays for condonation of 16 days delay and further prays for reviewing the order of this court dated 01.03.2019 passed in Writ Petition No.6816/2018.

2 I have considered the submissions of the learned advocate for the applicant even on the review application. I have also perused the good ground certificate (undated) issued by Shri R.K.Ashtekar, learned advocate for the applicant. The Civil Application is allowed.

3           RCS No.215/2008 is the suit pending in which, the present applicant is the plaintiff. In 2014 itself, the applicant/ plaintiff had closed his evidence. By application exhibit 114, he sought leave to examine the bond writer Shri G.D.Sayed from Chakur. Evidence was thereafter, concluded. By allowing the recalling of witness no.2, the Trial Court ordered on 02.12.2015 that the plaintiff would deposit costs of Rs.1500/-. Thereafter, the plaintiff moved one more application seeking leave to produce one more witness, whose name was not mentioned in the list of witnesses. By the order dated 05.10.2017, exhibit 114 was rejected.

4           After the applicant approached this court, notice was issued to the respondents and the applicant was directed to deposit Rs.10,000/- before the Trial Court. When the petition was heard on 01.03.2019, respondent no.1 had already withdrawn costs amount of Rs.10,000/- and therefore, this court showed sympathy towards this applicant and allowed him again to produce one witness, whose name was never mentioned in the list of witnesses. It was categorically recorded in the order that henceforth the applicant/ plaintiff shall not file any further application for recalling any witness or producing any witness since it was almost 05 years that recording of the plaintiff's evidence was over.

5           Now, the same plaintiff seeks modification of the direction of this court that "he will not move any application for seeking recalling of any witness or producing any witness".

6           After considering the facts and circumstances of the case and the orders passed, I find that this is one peculiar case in which, the learned advocate for the applicant should not have issued the good ground certificate. I am of the view that the learned advocate for the applicant has issued the said certificate very casually.

7           No error on the face of the order is pointed out. The Review Application is dismissed by imposing costs of Rs.5000/- (Rupees Five Thousand), which the applicant/ original plaintiff shall deposit in this court on or before 30.09.2019.

8           The learned advocate for respondent no.1 submits that the said amount of costs may be donated for a public cause.

9           As such, the Registry of this Court shall transfer the said amount of Rs.5,000/- (Rupees Five Thousand) along with accrued interest, if any, to the orphanage home **“Shantivan”, Arvi, Tq.Shirur Kasar, District Beed**" i.e. in the name of **“Bhavani Vidhyarthi Kalyan Pratishthan, Arvi”** by way of electronic transfer (State Bank of India, Branch Shirur (Kasar), Account No.33446000963, IFSC Code : SBIN0005995) and shall report compliance.