

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

WRIT PETITION NO.2504 OF 2016

Rajni Purushottam Joshi, Ramdaspath, Akola

-vs-

Dipti Dilip Joshi, Ramdaspath, Akola

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. R. Deshpande, Advocate for petitioner.

**CORAM : A.S.CHANDURKAR, J.**

**DATE : July 03, 2019**

Notice for final disposal was issued earlier. The respondent has been duly served.

2. The petitioner who is the defendant in a suit for permanent injunction is aggrieved by the order passed by the trial court below Exhibit-26 by which the trial Court has permitted the plaintiff to prosecute the suit through her Power of Attorney holder. The grievance of the petitioner is that the document of Power of Attorney was executed on 27/05/2015 much after filing of the suit. It is submitted on behalf of the petitioner that in the light of the law laid down in *Janki Vashdeo Bhojwani vs. Indusind Bank Limited AIR 2005 (SC) 439*, the Power of Attorney holder cannot depose in respect of those matters which are within the

personal knowledge of the original plaintiff. On that count the trial Court was not justified in passing the impugned order.

3. In the application at Exhibit-26 permission has been sought to conduct the suit through the Power of Attorney holder. At this stage the said Power of Attorney holder has not yet stepped into the shoes of the witness. The apprehension expressed on behalf of the petitioner can be taken care of by observing that it would be open for the defendant to object to any evidence led by the Power of Attorney holder if the same is in contravention of the law as laid down in *Janki Vashdeo Bhojwani* (supra). With these observations, the writ petition is disposed of. No costs.

**JUDGE**