

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

CIVIL APPLICATION (CAW) NO.3081 OF 2019

IN

WRIT PETITION NO.4147 OF 2019 (D)

(MUSLIM ORGANIZATION FOR HUMAN DEVELOPMENT & OTH...VS.. MRS SHAMIM PARVEEN
 NAIZ AHMED & ANR.)

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

Court's or Judge's orders

Shri A.K.Tripathi, Advocate for Petitioners/Applicants.
 Shri Salim I. Khan, Advocate for Respondent No.1.

CORAM : Z.A.HAQ, J.

DATED : NOVEMBER 20, 2019.

Heard.

2. Writ Petition No.4147 of 2019 filed by the petitioners was disposed by order dated 19th June 2019, which reads as follows:

“The learned advocate for the petitioner, on instructions, seeks permission to withdraw the writ petition.

*The petition is **disposed** as withdrawn. No costs.”*

3. According to the petitioners, there were some defects in the petition and therefore, the learned Advocate appearing for the petitioners had sought permission to withdraw the petition with liberty to file fresh petition, however, while transcription of the order dated 19th June 2019 it remained to be recorded that liberty was granted to the petitioner to file fresh petition. It is prayed that the order dated 19th June 2019 be modified and liberty be granted to the petitioner to file fresh petition.

4. Shri Salim I. Khan, Advocate has put in appearance for the respondent No.1. He submitted that the contention of the petitioners is not correct and this Court had not granted liberty to the petitioners to file fresh petition and the petition was withdrawn after the Court expressed that it was not inclined on merits of the matter.

5. I have called the Personal Assistant and have verified from the note book of the relevant date as to whether any mistake is committed while transcribing the order dated 19th June 2019. In the Short-Hand Note Book there is nothing to show that the order granting liberty to the petitioners to file fresh petition, was dictated.

6. Apart from this, the conduct of the petitioners on record is self-speaking. After passing of the order dated 19th June 2019, the petitioners filed another Writ Petition bearing No. 6384 of 2019. In paragraph No.11 of the Writ Petition No. 6384 of 2019, following statement was made:

“11. That the counsel of the Petitioner seeks permission to withdraw the writ petition and file it a fresh by correcting title clause. That this Hon’ble court was pleased to grant the permission to withdraw the Writ Petition and has disposed it accordingly on 19.06.2019. The copy of order passed by this Hon’ble Court in Writ Petition No.4147/2019 is annexed herewith and marked as ANNEXURE-I.”

In paragraph 11 it is stated that permission was sought by the lawyer to withdraw the petition and file fresh petition and Court had granted permission to withdraw the petition. In paragraph No.11 of the Writ Petition No. 6384 of 2019 it is not stated that the Court had granted liberty to file

fresh petition. Moreover, there is no explanation as to why steps were not taken immediately after 19th June 2019 to move the application in Writ Petition No. 4147 of 2019 seeking modification of the order dated 19th June 2019. There is no explanation why Writ Petition No.6384 of 2019 was filed on or after 13th September 2019 i.e. after almost 11-12 weeks. The learned Advocate for the respondent No.2 submitted that perhaps the assignment changed from 13th September 2019 and then second petition is filed.

7. Be that as it may, considering the facts of the case, it is clear that the claim made by the petitioners that Court had granted liberty to file fresh petition does not appear to be correct.

Hence, the civil application is **dismissed**. No costs.

JUDGE