

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

WRIT PETITION NO.461 OF 2020

(Pramod Tejram Gabhane Vs. Nana Daulatrao Wanve and others)

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

Court's or Judge's orders.

Shri Prashant Gode, Advocate for Petitioner.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 22nd JANUARY, 2020.

1] The petitioner is aggrieved by the order dated 14.01.2020 delivered by the learned Joint Charity Commissioner, Nagpur vide which, application Exh.35 filed by the petitioner for seeking permission to lead additional evidence in Appeal No.362/2018, has been kept pending. The Appellate Court has recorded that the application is filed at a premature stage and it can be considered along with the appeal on its merits.

2] The learned Advocate for the petitioner has strenuously criticized the impugned order. Reliance is placed upon the four grounds formulated in the memo of petition. I have gone through the petition paper-book.

3] I find that the application Exh.35 is filed for leading additional evidence at an appellate stage, which would attract Order 41 Rule 27 of the Code of Civil Procedure. The Hon'ble Apex Court has held in the following four judgments that such applications have to be entertained along with the appeal when it is finally heard :-

[i] Malyalam Plantations Ltd. v. State of

Kerala and another AIR 2011 SC 559.

[ii] Union of India v. Ibrahim Uddin and another (2012) 8 SCC 148.

[iii] A. Andisamy Chettiar v. A. Subburaj Chettiar AIR 2016 SC 79.

[iv] Jagdish Prasad Patel (dead) through legal representatives and another v. Shivnath and others (2019) 6 SCC 82.

4] In view of the above, I find that the learned Joint Charity Commissioner has rightly concluded that Exh.35 can be heard and considered while deciding the appeal on its merit.

5] This petition, is devoid of merit and is, therefore, dismissed.

(Ravindra V. Ghuge, J.)