

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

WRIT PETITION NO.9785 OF 2021

Shri Darshan S/o. Anilkumar Patel,
Age : 49 years, Occu. Business
R/o. Kalpita Enclave CHS,
E-1 Building, Flat No.1 and 2,
Ground Floor, Sahar Road,
Koldongri, Andheri (East),
Mumbai-400 069.

... **PETITIONER**

VERSUS

1. Pravinkumar Jinabai Patel,
Since deceased represented through
his legal heirs & representatives,
- 1-A. Smt. Savitaben Pravinchand Patel,
Age : 66 years, Occ. Business,
R/o. Plot No.40, 41, Patel Nagar,
Near Collector's Bungalow,
Jalgaon, District Jalgaon.
- 1-B. Sau. Kalpita S/o. Dilip Patel,
Age : 49 years, Occ. Business,
R/o. Plot No.40, 41, Patel Nagar,
Near Collector's Bungalow,
Jalgaon, District Jalgaon.
And
Flat No.773, Takshashila
Housing Society No.2,
Fulchhab Chowk,
Rajkot-360 002 (Gujarat).
- 1-C. Sau. Alpita Jayesh Soni,
Age : 47 years, Occu. Business,
R/o. Flat 4, Maple House,
45, Lismore Boulevard,
London – NW-94 EG,
United Kingdom
And
R/o. Plot No.40, 41, Patel Nagar,
Near Collector's Bungalow,
Jalgaon, District Jalgaon.
- 1-D. Sau. Trupti Amish Kothari,
Age : 45 years, Occ. Business,
R/o. Plot No.40, 41, Patel Nagar,

- Near Collector's Bungalow,
Jalgaon, District Jalgaon.
And
811, Takshashila Housing Society
No.2, opposite Star Plaza,
Fulchhab Press, Sada
Rajkot-360 002 (Gujarat).
2. Jayshri Jugalkishore Lathi,
Age : 58 years, Occ. Household,
R/o. Behind Bombay Lodge,
Navi Peth, Jalgaon,
Tq. & District Jalgaon.
 3. Sandeep Shivnarayan Zavar,
Age : 49 years, Occ. Business,
R/o. Behind Bombay Lodge,
Navi Peth, Jalgaon,
Tq. & District Jalgaon.
 4. Indumati Omkardas Kabre,
Age : 78 years, Occ. Household,
R/o. Dharangaon, Tq. Dharangaon,
District Jalgaon.
 5. Sadhana Bhushan Mundada,
Age : 50 years, Occ: Household,
R/o. Pimprala,
Tq. & Dist. Jalgaon.
 6. Ku. Jivanrani Narendra Raisonni,
Minor, through Sangita Narendra Raisonni,
R/o. Jaikisanwadi, Jalgaon,
Tq. & District Jalgaon.
 7. Sulochana Prakash Jain,
Age : 58 years, Occ: Household,
R/o. Jaikisanwadi, Jalgaon,
Tq. & District Jalgaon.
 8. Vimal Shankar Sakhare,
Age : 59 years, Occ. Household,
R/o. Plot No.2, Vrundavan Apartment,
Hareshwarnagar, Jalgaon,
Tq. & District Jalgaon.
 9. Shankar Jagannath Sakhare
(Deceased) through his legal heirs.
 - 9-1. Vimal Shankar Sakhare
Age : 80 years, Occ. Household,
R/o. Plot No.2, Vrundavan Apartment,
Hareshwarnagar, Jalgaon,
Tq. & District Jalgaon.
 - 9-2. Anil Shankar Sakhare,

- Age : 58 years, Occu. Service,
 9-3. Sunil Shankar Sakhare,
 Age : 65 years, Occu. Service,
- Nos. 9-2, 9-3, Plot No.1 and 2,
 Vrundavan Apartment,
 B-Building, Hareshwarnagar, Jalgaon,
 Tq. & District Jalgaon.
10. Chhaya Prakash Potdar,
 Age : 51 years, Occu. Household,
 R/o. Block No.6, Vrundavan Apartment,
 B-Building, Hareshwarnagar, Jalgaon,
 Tq. & District Jalgaon.
11. Girnari Rameshwar Agrawal,
 Age : 63 years, Occu. Household,
 R/o. Ground Floor, Vrundavan Apartment,
 Hareshwarnagar, Jalgaon,
 Tq. & District Jalgaon.
12. Vinod Rameshwar Agrawal,
 Age : 64 years, Occu. Business,
 R/o. Block No.3, Vrundavan Apartment,
 Hareshwarnagar, Jalgaon,
 Tq. & District Jalgaon.
13. Kantilal Motilal Chajed,
 (Deceased) through his L.Rs.,
- 13-A. Rajendra Kantilal Chajed,
 Age : Major, Occu. Business,
- 13-B. Vimal Kantilal Chajed,
 Age : Major, Occu. Business,
- 13-C. Hemant Kantilal Chajed,
 Age : Major, Occ. Business,
- Nos. 13-A to 13-C
 R/o. Ankita Bunglow,
 Ganesh Colony, Jalgaon,
 Tq. & District Jalgaon.
- 13-D. Pravin Kantilal Chajed,
 Age : Major, Occ. Business,
 R/o. Sofinco Industries Pvt. Ltd.,
 Kaveri Complex, 50, Nungabakkam,
 High Court Road, Chennai.
- 13-E. Sunita Surendra Tated,
 Age : Major, Occ. Household,

R/o. Maharashtra Bank,
Adnera, District Amravti.

- 13-E-E. Sangita Pramod Khivsara,
Age: Major, Occ. Household,
R/o. Chandan Apartment,
Pratapnagar, Jalgaon,
Tq. & District Jalgaon.
- 13-F. Sadhana Jabarchand Chopda,
Age : Major, Occ. Household,
R/o. A.P.R. Colony, Katanga,
Jabalpur (M.P.)
14. Hemand Kantilal Chajed,
Age : 48 years, Occ. Business
R/o. Vrundavan Apartment,
B-Wing, 1st Floor,
Hareshwarnagar, Jalgaon,
Tq. & District Jalgaon.
15. Asha Kishor Medhe,
Age : 58 years, Occu. Business,
R/o. Vrundavan Apartment,
B-Wing, 1st Floor,
Hareshwarnagar, Jalgaon,
Tq. & District Jalgaon.
16. Shivaji Gangadhar Temkar,
Age : 73 years, Occu. Business,
R/o. Vrundavan Apartment,
B-Wing, 2nd Floor,
Hareshwarnagar, Jalgaon,
Tq. & District Jalgaon.
17. Chandramohan Gangadhar Temkar,
Age : 58 years, Occu. Business,
R/o. Vrundavan Apartment,
B-Wing, 2nd Floor,
Hareshwarnagar, Jalgaon,
Tq. & District Jalgaon.
18. Satish Lalji Thakkar,
Age : 63 years, Occ. Business,
R/o. Vrundavan Apartment,
B-Wing, 2nd Floor,
Hareshwarnagar, Jalgaon,
Tq. & District Jalgaon.
19. Purushottam Chhotumal Gujarathi,
Age : 63 years, Occ. Business,
R/o. Vrundavan Apartment,
B-Wing, 2nd Floor,

- Hareshwarnagar, Jalgaon,
Tq. & District Jalgaon.
20. Nayana Deepak Patel,
Age : 54 years, Occu. Business,
R/o. Plot No.9, Vrundavan Apartment,
B-Wing, Ring Road, Jalgaon,
Tq. & District Jalgaon.
21. Kalpita Builders Pvt. Ltd., Jalgaon,
through its Director,
Darshan Anilkumar Patel
22. Anilkumar Jinabhai Patel
Since deceased through L.Rs.,
- 22-A. Smt. Geetaben W/o. Anilkumar Patel,
Age : 70 years, Occ. Household,
- 22-B. Shri Darshan S/o. Anilkumar Patel,
Age : 49 years, Occu. Business,
- 22-C. Shri Chetan Anilkumar Patel,
Age : 47 years, Occu. Business,
- 22-D. Shri Vikram Anilkumar Patel,
Age : 45 years, Occu. Business,
All R/o 180/1. Smrti, Gujrati Galli,
Zilla Peth, Jalgaon.

... **RESPONDENTS**

**WITH
WRIT PETITION NO.9864 OF 2021**

Kalpita Builders Pvt. Ltd., Jalgaon,
through its Director,
Shri Darshan S/o. Anilkumar Patel,
Age: 46 years, Occu. Business,
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Minor, through Sangita Narendra Raisonni,
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19. Purushottam Chhotumal Gujarathi,
Age : 63 years, Occ. Business,
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Age : 54 years, Occu. Business,
R/o. Plot No.9, Vrundavan Apartment,
B-Wing, Ring Road, Jalgaon,
Tq. & District Jalgaon.

... **RESPONDENTS**

...

Advocate for Petitioner in WP/9785/2021 : Mr. Darshan Anilkumar Patel
Advocate for Petitioner in WP / 9864/2021 : Mr. V.J. Dixit, Senior advocate
i/b. Mr. Sushant V. Dixit
Advocate for respondents : Mr. Anil S. Bajaj

...

CORAM : MANGESH S. PATIL, J.

DATE : 06.09.2021

ORAL JUDGMENT :

The Writ Petition No.9864/2021 is not on board. At the request of the learned advocates for the parties even that Writ Petition is taken on board and is being disposed of by this common judgment and order.

2. Heard. Rule. The Rule is made returnable forthwith. With the consent of both the sides, the matters are heard finally at the stage of admission.

3. The petitioner is the appellant before the District Court. By filing Miscellaneous Civil Application No.162/2021 and Miscellaneous Civil Application No.163/2021 a request was made to transfer the Appeals to some other court. By the impugned orders the learned Principal District Judge has rejected the requests. Hence these Writ Petitions.

4. The learned Senior advocate Mr. Dixit would take me through the record and makes an attempt to demonstrate that at every stage the learned District Judge has shown haste and has imposed costs giving rise to a suspicion being perceived by the petitioner as to if the Appeal would be decided impartially. He would submit that though the Appeals were made time bound by the Supreme Court and were to be decided by 31.08.2021, the appellant was before this Court in few Writ Petitions impugning the interlocutory orders passed in the very same Appeals. This Court had decided those Writ Petitions on 09.08.2021. Even thereafter, the learned District Judge continued to demonstrate undue haste and when an adjournment was sought initially for challenging the order which is

impugned in these petitions, and even thereafter, when time was sought to argue the Appeal in view of the bulky record, the learned District Judge flatly refused to concede to the request. All these circumstances give a reasonable ground for the petitioner rather substantiate his suspicion that the learned District Judge would not decide the Appeals impartially.

5. Per contra, the learned advocate Mr. Bajaj for the respondents would submit that the petitioner has been intentionally and *mala fide* protracting decisions of the Appeals. His conduct is not new. He has been persistently following such dilatory tactics. Even his such conduct was commented upon by the Supreme Court in Civil Appeal No.3313/2018. Not only the Supreme Court had made the Appeals time bound, even this Court at earlier point of time had directed the learned District Judge to expedite the Appeals. In spite of such state of affairs, the petitioner has been some way or the other trying to prolong the Appeals.

6. I have carefully gone through the impugned order and considered the rival submissions.

7. Needless to state that these are not the proceeding wherein any comment can be made in respect of the actual litigation, its merits and demerits which is pending before the District Court in the Appeals. We are only concerned as to if there has been some reasonable ground to concede to the request of the petitioner to transfer the proceedings from the learned District Judge where those are currently pending, to some other Judge.

8. As can be conceived, the whole emphasis of the petitioner in

seeking such a transfer is on the fact that the learned District Judge has been compelling him to conduct the Appeals at the earliest. It is because of such haste being shown by the learned District Judge that he has a perception that perhaps he may not get justice. I am afraid, simply because the Judge has refused to grant time, albeit some concession was granted, has committed haste in expecting the Appeals to be decided within the time limit prescribed by the Supreme Court. If the Supreme Court has made the matters time bound, the learned District Judge, indeed, was obliged to show haste. It is not that the learned Judge has not granted any concession or time to the petitioner to impugn the present order impugned in the matter in the hand. She had granted some time in spite of it a request was made when the petitioner was unable to solicit any order from this Court either to transfer the matter or to grant any ad-interim relief, that the learned District Judge refused to grant adjournment and vacated the ad-interim stay.

9. If such is the state of affairs, when the learned District Judge was expected to decide the Appeals on or before 31.08.2021, in fact it was expected of the petitioner to have cooperated the learned District Judge in deciding the Appeals.

10. There is one more aspect which needs a specific reference. Impugning few orders on the Interlocutory Applications passed by the self same District Judge the petitioner was before this Court and four Writ Petitions were filed. All those four petitions were decided by two separate orders on 09.08.2021. It is on the very same day that the impugned order

refusing to transfer the proceedings were passed by the learned Principal District Judge. While disposing of the Writ Petitions this Court had specifically expected the parties to get the Appeals decided within the time frame fixed by the Supreme Court. If such was the state of affairs, the attempt of the petitioner to once again approach the learned District Judge and solicit adjournments after his application for transfer was rejected by the learned Principal District Judge itself is demonstrative of the fact that he is not interested in prosecuting the Appeals and allowing the learned Judge to decide those within the time frame fixed by the Supreme Court.

11. I find no perversity or arbitrariness in the order passed by the learned Principal District Judge refusing to transfer the Appeal.

12. The Writ Petitions are dismissed. The Rule in both the Writ Petitions is discharged.

(MANGESH S. PATIL, J.)

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