

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

933 WRIT PETITION NO.10747 OF 2022

**PRAKASH NARAYANDAS RIZWANI
VERSUS
THAKURDAS NAVALRAI RIZWANI DIED THROUGH LRS NARESH
THAKURDAS RIZWANI AND OTHERS**

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Advocate for Petitioner : Mr. Anil H. Kasliwal

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CORAM : SANDEEP V. MARNE, J.

DATE : 14-10-2022

PER COURT :

. By the present petition, the petitioner has challenged the order dated 25.10.2021 passed by the 4th Jt. Civil Judge, Senior Division, Nanded on application at Exh.813 in Regular Civil Suit No.663 of 2000. The petitioner is defendant no.6 in the suit. He was minor at the time of institution of the suit. He attained majority on 31.07.1989. In his application, the petitioner sought dismissal of the suit against him on the ground that under the provisions of Order -32, Rules 12, 13 and 14 of the Civil Procedure Code, the plaintiff failed to take steps against him after he attained majority. The step that the petitioner was expecting is issuance of summons on him after attaining majority.

2. The trial Court has rejected the application by order dated 25.10.2021. While rejecting the application, the Court has observed that defendant no.1 in the suit had placed on record the factum of petitioner attaining majority by way of application dated 21.07.1989. In pursuance of that application of defendant no.1, the plaintiff filed an application on 15.09.1989 seeking permission to correct the age of minor defendants who had attained majority. That application was allowed on 22.12.1989 and summons were issued by order dated 17.01.1990. Thus, it is a matter of record that after attaining majority by the petitioner, a summons was indeed issued to him.

3. The learned Counsel appearing for the petitioner makes a statement that there is no record of such summons being received by the petitioner. I have gone through the application filed by the petitioner on which the impugned order has been passed. There is no statement in the entire application to the effect that the summons issued in the year 1989 was not received by the petitioner.

4. In the circumstances, I do not find any error is committed by the trial Court in dismissing the petitioner's application. The petition is gross abuse of process of law and same

deserves to be dismissed in *limine*. It is accordingly dismissed without any orders as to costs.

(SANDEEP V. MARNE, J.)

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