

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

**WRIT PETITION NO. 1755 OF 2022**

Indal s/o Dawla Chavan

..VS..

Sheshrao s/o Sitaram Budhe

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

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Shri Bhushan Dafle, Advocate for the petitioner.

**CORAM : ROHIT B. DEO, J.**

**DATED : 30/03/2022.**

The petitioner is the defendant in Special Civil Suit 62 of 2018, which is brought by the respondent/plaintiff seeking decree of Specific performance of the agreement dated 31.08.2015. The subject matter of the agreement is situated at village Teka Moli, Taluka Aashti, District Wardha.

2. After the issues were framed and the suit was at the stage of the evidence, the defendant preferred an application seeking dismissal of the suit on the premise, that the Court of Joint Civil Judge, Senior Division, Wardha does not have the territorial jurisdiction to entertain the suit. The defendant contended that the suit ought to have been instituted in the Court of Civil Judge, Junior Division, Aashti.

3. The learned Trial Judge was pleased to reject the application seeking dismissal of the suit noting that the plaintiff has already examined himself and the suit is fixed for cross-examination of witness 2.

4. The learned Trial Judge rightly noted that the objection on the ground of lack of territorial jurisdiction

ought to have been taken at the earliest opportunity. The learned Trial Judge was clearly alive to the provisions of 21 of the Code of Civil Procedure. Further, the learned Trial Judge also noted that the valuation is more than Rs.5 lakhs, if the notice expenses are included in the claim towards refund of earnest amount.

5. I entirely agree with the reasons recorded by the learned Trial Judge, for rejecting the application seeking dismissal of the suit.

6. Apart from lack of merit on facts, the application was made at a belated stage. The legislative intent is clear. Such application cannot be entertained, ordinarily, after issues are framed. In the present case, the evidence has progressed considerably.

7. The petition is dismissed.

**JUDGE**

*Trupti*