

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

WRIT PETITION NO.922 OF 2021

Pradeep s/o Gangadharrao Birewar
Vs.

Ramnath s/o Shiva Gurnule (since deceased) through his LRs. and others

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

Court's or Judge's orders

Mr. Rohit Joshi, Advocate for petitioner.

Mr. A. A. Dhawas, Advocate for respondent no.1 (B).

CORAM : AVINASH G. GHAROTE, J.

DATE : 12/08/2022

1. The petition challenges the order dated 30.1.2019 below Exh.26 whereby the application under Order 41 Rule 27 of the Code of Civil Procedure (hereinafter referred as "the CPC") (page 62) has been rejected on the ground that the documents which were sought to be filed by virtue of the application under Order 41 Rule 27 of the CPC, there was no such application for permission to file documents (page 365).

2. A perusal for the record indicates that though the application under Order 41 Rule 27 of the CPC was not accompanied by list of documents and the documents, in fact, the documents were subsequently placed on record by virtue of Exh.40 dated 17.1.2017 before the passing of the impugned order dated 30.1.2019, in view of which, the learned trial Court could not have rejected the application on this ground.

The impugned order is therefore, based upon a factually incorrect situation, considering which, the same is hereby quashed and set aside and the application below Exh.26 is allowed.

3. The Writ Petition is allowed accordingly. No costs.

JUDGE

Sarkate