

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

MISC. CIVIL APPLICATION NO.595/2009

IN

WRIT PETITION NO.256/2006

Smt. Tarmanibai wd/o. Purushottamdas Mohata and Ors.

Vs.

Shravan S/o. Tarachand Gupta @ Agrawal and Ors.

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

Mr. S. R. Deshpande, Advocate for the Applicants.

CORAM : AMIT B. BORKAR, J.

DATED : 19th SEPTEMBER, 2022.

. By order dated 05.03.2009, this Court dismissed the Writ Petition on the ground that the petition was dismissed against respondent Nos.3, 4, 5, 10 and 11 by order dated 03.03.2009. It appears that this Court considered the previous order while dismissing the Writ Petition. The order impugned in the Writ Petition arises out of setting aside abatement of the suit for specific performance.

2. The record discloses that by order dated 03.03.2009, the petition was dismissed against respondent Nos. 3, 4, 5, 10 and 11. The order under review was passed on 05.03.2009 i.e. after two days. In my opinion, since the substantive rights of the parties in relation to the immovable properties are involved, this Court ought to have shown some more latitude to the petitioners. In my opinion, the Single Judge of this Court ought to have given opportunity to

the petitioners to take steps against respondent Nos. 3, 4, 5, 10 and 11. Since passing of an order of dismissal of Writ Petition on 05.03.2009 on the ground that on 03.03.2009 this Court had dismissed the Writ Petition against some of the contesting respondents, would be a hypertechnical view, which constitutes an error apparent on the face of the record. In my opinion, in the interest of justice, the petitioners need to be given opportunity to argue their case on merits.

3. Miscellaneous Civil Application No.595/2009 is, therefore, allowed.

4. Writ Petition No.256/2006 is restored to the file of this Court.

WRIT PETITION NO.256/2006.

. Issue notice for final disposal of the matter to the respondents, returnable on 19.10.2022.

JUDGE

RGurnule