

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

WRIT PETITION NO. 81 OF 2022

Shri Chetan s/o Purushottam Borkute,
Aged about 45 years,
Occupation – Agriculturist,
R/o Plot No.2, Ravindra Smruti,
Doctors Colony, Chhatrapati Nagar,
Nagpur – 440015.

.... **PETITIONER**

VERSUS

- 1) Smt. Nilima w/o Satish Wankhede,
Aged about 52 years,
Occupation – Household,
- 2) Smt. Savita wd/o Dattatraya Borkute,
Aged about 76 years,
Occupation – Nil.

Both R/o Plot No.2, Ravindra Smruti,
Doctors Colony, Chhatrapati Nagar,
Nagpur.

.... **RESPONDENTS**

Mr. S.A. Kalbande, Counsel for the petitioner,
Ms. Surabhi Naidu, Counsel for the respondents.

CORAM : ROHIT B. DEO, J.
DATED : 14th JANUARY, 2022

ORAL JUDGMENT :

Heard. **Rule.** With consent, the petition is heard finally.

2. The limited grievance of the petitioner is that in Regular Civil Suit 658/2019 instituted by the respondents, he preferred counter-claim seeking permanent injunction, and while the respondents are permitted to withdraw Regular Civil Suit 658/2019 with liberty to file fresh suit, even the counter-claim is disposed of.

3. Counter-claim is to be treated as an independent suit and the question of the counter-claim being disposed of, does not arise.

4. The learned Counsel appearing on behalf of the respondents fairly does not join issues with Mr. S.A. Kalbande who appears on behalf of the petitioner. It is clarified that while the plaint of the respondents is withdrawn with liberty, the counter-claim preferred by the petitioner shall be registered separately and shall proceed and be disposed of by the trial Court in accordance with law notwithstanding the withdrawal of the suit plaint instituted by the respondents.

5. The petition is disposed of in the aforestated terms.

JUDGE

adgokar

Digitally signed by PRAFULLA
MANOHARRAO ADGOKAR
Signing Date: 18.01.2022 15:21