

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

WRIT PETITION NO. 4063 OF 2022

Gulab Naraynrao Chaturkar

vs.

Vimalabai wd/o Domaji Bhoskar and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms. Priyanka Dubey, Advocate for petitioner.

CORAM : MANISH PITALE J.

DATE : 20/07/2022

By this petition, the petitioner has challenged order dated 10/06/2022, passed by the learned Principal District Judge, Nagpur, whereby an application under Section 24 of the Code of Civil Procedure, 1908 (CPC) filed by the petitioner has been rejected.

2. The principal contention raised on behalf of the petitioner is that manner in which the proceedings are being conducted by the Court of 6th Civil Judge Senior Division, Nagpur in Regular Civil Suit No.1468 of 2001, demonstrates that the concerned Court is proceeding in a biased manner and that there is a genuine apprehension of the

petitioner that if proceedings are permitted to be continued before the said Court, they will be prejudicial to the petitioner. On this ground transfer of the suit was sought to another Court.

3. The learned Principal District Judge took into consideration the contentions raised on behalf of the petitioner and upon referring to the documents relevant to the contentions raised on behalf of the petitioner, found that no ground was made out warranting transfer of the pending suit to another Court.

4. This Court has perused the impugned, order as also the material brought to the notice of this Court and in that backdrop contentions raised on behalf of the petitioner have been considered. The record shows that the suit for partition and separate possession is pending since the year 2001, perhaps because it was earlier decreed and then on appeal remanded back to the aforesaid Court for consideration afresh. Be that as it may, 21 years have gone by and the suit is still pending before the original Court.

5. The learned counsel appearing for the petitioner vehemently contended that if the affidavit-

in-evidence of the concerned witness is perused and the manner in which the cross-examination has been recorded is also perused, it would demonstrate that the Presiding Officer of the aforesaid Court is acting in a manner prejudicial to the interest of the petitioner and therefore, it is apprehended that justice will not be meted out to the petitioner in the said Court. A reference is made to application for passing “no cross” order against the plaintiff, the order passed thereon and certain allegations are levelled against the Judicial Officer Presiding over the said Court. These are the very allegations that were made before the learned Principal District Judge also and they have been dealt with in the impugned order.

6. Specific allegation is made against a Court official addressed to as ‘A.S.’, to the effect that certain overwriting was found in the affidavit-in-evidence of the concerned witness against which endorsements were not made by the ‘A.S.’ and that question sought to be put to the witness in that regard were not allowed by the aforesaid Court. The learned Principal District Judge has addressed the said argument in an appropriate manner. A grievance is raised by the petitioner in respect of certain orders passed by the concerned Court on applications, which could always be challenged as per procedure known to law and it

cannot be said that the material placed before the learned Principal District Judge or this Court demonstrates sufficient grounds for seeking transfer of the suit from the said Court to another. There does not appear to be sufficient material to warrant such transfer of proceedings. As regards certain submissions made about alleged oral observations made by the Presiding Officer of the said Court, the said contention is to be referred only to be rejected.

7. This Court is not convinced that jurisdiction of this Court can be invoked to interfere with the impugned order passed by the learned Principal District Judge. Hence, there is no substance in the present writ petition and accordingly, it is dismissed.

JUDGE