

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

53 WRIT PETITION NO.4497 OF 2022

**BHAGVAT UTTAM BIGHOT
VERSUS
BABRUVAN ANTOBA LOKHANDE**

...
Advocate for Petitioner : Mr. Anant R. Devakate
Advocate for Respondent : Mr. V.P. Sawant
...

**CORAM : SHARMILA U. DESHMUKH, J.
DATE : 25-01-2023**

PER COURT :

. Both the parties are *ad idem* that as the petitioner has filed subsequent application before the trial Court seeking deletion of his name from the cause title of the suit, the present petition can be disposed of.

2. Regular Civil Suit No.526 of 2019 was instituted by the respondent against Nagar Parishad Georai, Tal. Georai, Dist. Beed seeking mandatory injunction for removal of the unauthorized auto rickshaw stand in front of the respondent's house. Although the relief was sought against the Nagar Parishad Georai, the petitioner came to be impleaded in the suit by his personal name as Chief Officer of the Nagar Parishad Georai. Thereafter, the petitioner filed an application (Exh.16) seeking dismissal of the suit on the ground that since he was

impleaded as defendant in his name and in capacity of Chief Officer of Nagar Parishad and he was transferred from Georai, the suit is not tenable and is liable to be rejected. The said application came to be rejected by the impugned order dated 06.01.2022.

3. It is not in dispute that instead of the application for dismissal of the suit, the petitioner ought to have filed an application for deletion of his name as the relief was sought against the Georai Municipal Council and not against the petitioner in his individual capacity. Realizing the same, the petitioner has now filed an application for deletion of his name.

4. The writ petition is disposed of with a direction to the trial Court to consider the application of the petitioner for deletion of his name on its own merits and in accordance with the law and preferably within the period of four weeks from the date of this order.

5. Writ Petition is accordingly disposed of.

(SHARMILA U. DESHMUKH, J.)