

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

**REVIEW APPLICATION NO.102 OF 2022
IN WRIT PETITION NO. 2434 OF 2001
WITH CA/9385/2022 IN REVIEW APPLICATION/102/2022 WITH
CA/9387/2022 IN REVIEW APPLICATION/102/2022 WITH CA/10114/2022
IN RA/102/2022 WITH CA/15431/2022 IN RA/102/2022**

**RATAN ASHRU PAGORE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO.10113 OF 2022
(For condonation of delay)
IN
REVIEW APPLICATION (ST) NO.18098 OF 2022
IN WP NO.1160/2003 WITH CA/16466/2022 IN RAST/18098/2022**

**RATAN ASHRU PAGORE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO.12139 OF 2022
(For condonation of delay)
IN
REVIEW APPLICATION (ST) NO.20825 OF 2022
IN WRIT PETITION NO.4359/2002**

**RATAN ASHRU PAGORE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO.15432 OF 2022
(Intervention application)
IN
REVIEW APPLICATION NO.102 OF 2022
IN WRIT PETITION NO.2434/2001**

**DHANSING RAMJI JPAGORE DEAD THR LRS
SAKHARABAI DHANSING PAGORE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.
WITH
CIVIL APPLICATION NO.5091 OF 2022
(For condonation of delay)**

IN
REVIEW APPLICATION (ST) NO.7136 OF 2022 IN WP/2434/2001

RATAN ASHRU PAGORE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

WITH
CIVIL APPLICATION NO.9384 OF 2022
(Intervention application)
IN
REVIEW APPLICATION NO.102 OF 2022 IN WP/2434/2001

KASHINATH RAOJI PAGORE DEAD THR LRS
SWATI KASHINATH PAGORE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

CIVIL APPLICATION NO.9386 OF 2022
(Intervention application)
IN
REVIEW APPLICATION NO.102 OF 2022 IN WP/2434/2001

RAJU DAGDU PAGORE DEAD THR LRS
NANDA RAJU PAGORE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

WITH
CIVIL APPLICATION NO.12131 OF 2022
IN
REVIEW APPLICATION NO.102/2022
IN WRIT PETITION NO.2434/2001 WITH
CA/12132/2022 IN RA/102/2022 IN WP/2434/2001 WITH
CA/12133/2022 IN RA/102/2022 IN WP/2434/2001 WITH
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CA/12138/2022 IN RA/102/2022 IN WP/2434/2001

RATAN ASHRU PAGORE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

...
Ms. Sanghmitra Wadmare advocate for applicant
Mr. S.B. Yawalkar for the respondent / State
Mr. Mukul R. Wagh advocate for the respondent
...

CORAM : MANGESH S. PATIL, J.

DATE : 13.01.2023

ORDER :

The applications for condonation of delay in filing the review applications are allowed and the delays are condoned.

2. I have heard the learned advocate Ms. Wadmare who appears for the applicant Ratan Ashru Pagore and learned advocate Mr. Wagh.

3. It is not necessary to narrate entire facts and circumstances leading to the filing of the review applications. The following facts would suffice:

- i. The applicant is one of the petitioners in all these petitions. All these petitions were disposed of as withdrawn on a statement that was made by learned advocate Mr. Wagh, by order dated 07.10.2021. The applicant is now complaining that without there being any authority and instructions from him the writ petitions were withdrawn and on this sole count he is seeking that the order for withdrawal of the writ petitions to his extent be recalled and the petitions be restored.
- ii. The applicant is the petitioner No.5(i) in WP No.2434/2001, respondent No.4(a) in WP No.4359/2002 and Petitioner No.5(v) in WP No.1160/2003.
- iii. These three writ petitions were before this Court on 26.08.2021. Since several advocates were present and were claiming to have authority to represent the petitioners, following common order was

passed on 26.08.2021.

“ It appears that there is some dispute and confusion in respect of appearance of the petitioners/applicants. More than one advocates are before the Court having different instructions from the same petitioners. Let the matter be considered by the Registrar (Judicial). Remove from the board. ”

- iv. Pursuant to such an order the matter was considered by the Registrar (Judl.). The Registrar (Judl.) submitted following report :

“1. The Hon’ble Court (Coram: Mangesh S. Patil, J.) vide order dated 26.08.2021 in Writ Petition No.4339/1997 and other connected matters is pleased to direct the undersigned to consider the issue of appearance of more than one advocates for the same petitioners.

2. I am to submit that the learned advocates Mr. Paranjape and Mr. Wagh placed on record Chart **(Flag-A)**. The office has also placed on record the statement showing the details of the advocates who are representing the petitioners.

3. As per the record, in Writ Petition No.2434/2001 Mr. V.R. Dhorde & Mr. V.D. Patnoorkar advocates are representing the petitioners.

4. In Writ Petition No.4359/2002 Mr. A.M. Dabir is representing the petitioners.

5. In Writ Petition No.1160/2003, initially Mr. A.S. Shelke and later on Shri A.D. Gadekar and R.P. Kanojiya are representing the petitioners.

6. Today, the learned advocates Mr. P.S. Paranjape and Mr. M.R. Wagh have filed Vakalatnama **(Flag-B)** on behalf of all petitioners in Writ Petition Nos.2434/2001, 1160/2003 and 4359/2002.

7. The learned advocate Mr. Wagh submitted that now all earlier advocates mentioned above who were representing the petitioners have been discharged by the petitioners. He further submitted that now the petitioners have engaged advocates Shri P.S. Paranjape and Mr. M.R. Wagh to represent them in all above numbered three petitions. He has also placed on record the affidavit of one of the petitioners, namely, Ratan Ashruba Pagore in Writ Petition Nos.2434/2001 and 1160/2003, wherein he has stated on solemn affirmation that he has executed the affidavit for himself and on behalf of legal heirs and they have appointed advocates Shri Paranjape and Mr. Wagh to represent them in Writ

Petition Nos.2434/2001 and 1160/2003.

8. Likewise, legal heirs of original petitioner in Writ Petition No.4359/2002 have also executed affidavit stating that they have now engaged advocate Mr. M.R. Wagh to represent them. All the affidavits are kept herewith **(Flag-C)**.

9. In turn, the position is placed before Your Lordship for kind perusal.”

- v. All the three writ petitions came up before this Court on 07.10.2021. It was reported that Mr. Wagh was representing for all the petitioners in all the three writ petitions.
- vi. Since the learned advocate Mr. Wagh made a statement that he was instructed by the petitioners in writing to withdraw the writ petitions, the following orders were passed on the three writ petitions separately on the same date :

Order dated 07.10.2021 in WP No.2434/2001

“ The Registrar (Judicial) has reported that Mr. M.R. Wagh appears on behalf of all the petitioners in this writ petition. They have instructed him to withdraw the writ petition.

2. The writ petition is dismissed as withdrawn.

3. In view of dismissal of writ petition, the pending civil applications in this writ petition stand disposed of.

Order dated 07.10.2021 in WP No.4359/2002

“The Registrar (Judicial) has reported that it is Mr. M.R. Wagh, learned Advocate who now represents the legal representatives of the sole petitioner Mohan Laxman Pagore who is no more.

2. Learned Advocate Mr. M.R. Wagh, on instructions, submits that the petitioners want to withdraw the writ petition.

3. Mr. G.N. Kulkarni, learned Advocate submits that couple of heirs of Mohan Laxman Pagore, namely Ramesh and Arun have authorized him to represent them in this writ petition. On enquiry with learned Advocate Mr. Kulkarni, he informs that they had forwarded vakalatnama to him in his favour in the month of August, 2021, which is filed on record by him alongwith an application. It is taken on record and marked “X”.

4. However, now Mr. M.R. Wagh, learned Advocate has

tendered the affidavits of Ramesh Mohan Pagore and Arun Mohan Pagore, which are sworn in before the Section Officer of this High Court and the affidavits are annexed with copies of Aadhar cards. These affidavits have been sworn in on 30.09.2021, obviously after they had issued vakalatnama in favour of learned Advocate Mr. G.N. Kulkarni.

5. In view of the statement made by Mr. Wagh, learned Advocate, the writ petition is dismissed as withdrawn.

6. In view of dismissal of writ petition, the pending civil applications stand disposed of.”

Order dated 07.10.2021 in WP No.1160/2003

“ Pursuant to the order passed on the last date, the Registrar (Judicial) has submitted a report mentioning that in this writ petition, Mr. Wagh, learned Advocate is appearing for all the petitioners.

2. Today, once again learned Advocate Mr. G.N. Kulkarni submits that one of the petitioners namely Sominath Dagdu Pagore has engaged him. As can be seen from the report of the Registrar (Judicial), Mr. Kulkarni never seems to have approached him to enable him to ascertain if there is any substance in the submission of Mr. Kulkarni.

3. Learned Advocate Mr. Wagh submits that all the petitioners have jointly instructed him under their signatures/thumb impressions directing him to withdraw the writ petition.

4. Though these written instructions bear some thumb impression against the name of petitioner Sominath Dagdu Pagore, there is no attestation, besides the dispute regarding authority to represent him.

5. In view of above, the writ petition to the extent of rest of the petitioners except petitioner Sominath Dagdu Pagore stands disposed of as withdrawn.

6. In view of disposal of the writ petition, all pending civil applications stand disposed of.

7. After dictating the above order in the first session, petitioner Sominath Dagdu Pagore seems to have sworn in an affidavit before the Section Officer of this Court and it is tendered across the bar by the learned advocate Mr. Wagh, confirming that he has authorised Mr.Wagh to represent him in the present proceeding.

8. By the earlier order, in view of the instructions of the rest of the petitioners, leave was granted to withdraw the Writ Petition and it was directed to be disposed of as withdrawn. Since there was dispute as regards appearance on behalf of

petitioner Sominath Dagdu Pagore, in view of his such affidavit now, the doubt gets cleared.

9. The learned advocate Mr. Wagh on behalf of petitioner Sominath Dagdu Pagore also makes a request that the Petition may be allowed to be withdrawn.

10. The Writ Petition even to the extent of petitioner Sominath Dagdu Pagore is dismissed as withdrawn.”

vii. The applicant is now putting up a grievance that he had never instructed Mr. Wagh to withdraw the Writ Petition and has now filed these review applications.

4. Learned advocate Ms. Wadmare for the review applicant would strenuously submit that the applicant is not disputing that he had engaged learned advocate Mr. Wagh along with the rest of the petitioners but submits that he had never instructed Mr. Wagh to withdraw the writ petitions. She would submit that though there were discussions between petitioners and the respondents for entering into a compromise but it was never entered into though some money was transferred in the accounts of the petitioners including the applicant himself. It was merely token amount and he had never raised any objection in that regard. She would submit that without knowledge and consent of the applicant, the revenue record of the writ properties were mutated and it is thereafter that he realized about the fraud practised upon him. Though the applicant received an amount of Rs.18,90,000/- the money was transmitted to his account without his consent. The writ property has enormous value but surreptitiously the petitions were withdrawn and the orders to the extent of applicant may be recalled and the petitions be restored. She would also point out that the

mutations have taken place after withdrawal of the writ petitions.

5. As can be seen from aforementioned circumstances, though there was initially some dispute regarding authority to represent the petitioners in all the three petitions, they were directed to appear before the Registrar (Judl.) who had after inquiry specifically informed that advocate Wagh was having the authority and was representing all the petitioners in all the three petitions. It is thereafter that on a statement of learned advocate Mr. Wagh about all the petitioners having instructed him in writing that the orders under review were passed and the petitions were dismissed as withdrawn.

6. Pertinently, one petitioner Sominath Dagdu Pagore had initially disputed his thumb impression on the written instructions and therefore the Writ Petition No.1160/2003 was disposed of as withdrawn except him. However, in the second session another affidavit was sworn by Sominath Dagdu Pagore before the Section Officer of this Court authorizing Mr. Wagh to represent him and further requested for withdrawal and even to his extent the petition was dismissed as withdrawn.

7. It is to be noted that these were the petitions filed by number of persons. In fact admittedly, applicants' father was the original party and not only the applicant but his real brothers were also appearing as the heirs of their deceased father Ashru Satwa Pagore. Interestingly, even his four brothers are not raising any dispute regarding dismissal of the writ petitions as withdrawn.

8. Though one need not go into all the details it is suffice to observe that the applicant himself admits about having received huge money which was deposited in his account from time to time right from the year 2016. It is not that the writ petitions were dismissed on the basis of some compromise or settlement terms albeit, as it transpires some compromise was reached out of Court. The fact remains that the parties seem to have entered into some kind of compromise a copy of which is also placed on record demonstrating as to how not only in respect of the applicant, but moneys were deposited in the accounts of several other petitioners.

9. The applicant is now disputing the fact of having issued any instructions to the learned advocate Mr. Wagh for withdrawal of the writ petition. Pertinently, it is he alone who is now raising this dispute in spite of specifically swearing affidavit to the effect that though there was some misunderstanding regarding Vakalatnama, he did engage advocate Wagh. The written instructions placed on record by advocate Mr. Wagh apparently show that all the petitioners including the applicant have put their signatures/thumb impressions. It is on the basis of such state of affairs, the petitions were dismissed as withdrawn.

10. The whole attempt of the applicant to rake up the issue in the peculiar facts and circumstances of the case in all probability is by way of an after thought. There is enough material to demonstrate that the dispute regarding authority of Mr. Wagh who appears and represent all the petitioners, was raised. They were directed to appear before the Registrar

(Judl.) who conducted an inquiry and confirmed that Mr. Wagh was having the authority and was appearing for all the petitioners and it is thereafter that the petitions were dismissed as withdrawn on the submission being made by Mr. Wagh. I am pointing out these facts to demonstrate that the applicant was very well aware about what was going on in the matters. If at all he had some grievance, there would not have been the delay in filing these review application. There is every room to believe that for some extraneous reasons, he has preferred these review applications as an after thought. There is no substance in the review applications.

11. Since the writ petitions were dismissed as withdrawn and not on the basis of some compromise, one need not enter into any other controversy.

12. Though there are several applications for intervention, these being the review applications preferred by the applicant alone, all these applications are dismissed. Similarly, the applicant has filed several applications for bringing on record the legal heirs of the respondents in the review applications even those would not survive and are disposed of.

(MANGESH S. PATIL, J.)