

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 471 OF 2021

Shri Daulat Samirmal Mehta)...Petitioner

V/s.

Union of India and Others)...Respondents

None for the Petitioner.

Mr. Pradeep Jetly, Senior Advocate a/w. Mr. Jitendra B. Mishra, Advocate for the Respondents.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.**

DATE : 8 FEBRUARY 2023

P.C.

On 20 January 2023 since none had appeared for the Petitioner, the Petition was adjourned till today. It was stated, if none appears for the Petitioner on the next date, it will be presumed that the Petitioner has lost interest in prosecuting the Petition and appropriate orders will be passed.

2 None appears for the Petitioner again. The Petition is listed under the caption "For Dismissal". The board is notified in advance and the orders are uploaded.

3 The perusal of the Farad sheet shows that the Petitioner has not appeared in the matter after the order has been passed regarding bail. But considering that prayer regarding grant of bail is sought in the Civil Writ Petition, the judgment of Division Bench of this court in the case of *Nagpur Cable Operators Association vs. Commissioner of Police, Nagpur*¹ will have to be noted. The Division Bench expounded the law as to in which circumstances criminal writ petition should be filed and in which circumstances civil writ petition needs be filed. The Division Bench has observed thus :

".....if the writ petition/application under Articles 226 and/or 227 of the Constitution arises out or relates to a proceeding in which, if carried to its conclusion ultimately it may result in sentence of death or by way of imprisonment, fine or forfeiture of the property then such writ petition/application under Article 226 of the Constitution of India and / or under Article 227 of the Constitution, should be treated as a "criminal writ petition" and styled as such. For hearing and decision of such petition, it should be listed before the Division Bench allocated such business by Hon'ble the Chief Justice or if it pertains to the single Judge jurisdiction, before the Bench assigned such work."

1 AIR 1996 BOM 180

4 Be that as it may, since none appears for the Petitioner, Writ Petition is dismissed in light of the order dated 20 January 2023.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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