

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

WRIT PETITION NO. 1057/2022

NANAJI S/O. PENTYYA LONARE
VS
MONDI S/O. PENTYYA LONARE AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Rajnish Vyas, counsel for the petitioner.
Shri A.R. Fule, counsel for the respondents.

CORAM : ANIL S. KILOR, J.
DATED : 25/01/2023

1. Heard.
2. The present writ petition is filed against the order dated 05/02/2022, passed by the Civil Judge Junior Division, Aheri in Regular Civil Suit No. 05/2017, rejecting the application for recalling the witnesses.
3. Shri Rajnish Vyas, learned counsel for the petitioner submits, that on 17/01/2022, additional issues were framed and in the light of the said developments, an application Exhibit 108 for recalling of the witnesses was moved on 03/02/2022. It is submitted that, without giving fair opportunity to recall the witnesses and cross-examine them in the light of the additional issues, the application was rejected.

4. On the other hand, learned counsel for the respondents submits that after following due procedure, the matter has been proceeded further and after recording the evidence and after hearing the parties, the matter is fixed for judgment. He, therefore, submits that at this stage, this Court may not interfere with the order impugned in this case.

5. I have perused the documents filed along with the petition and the impugned order.

6. The submissions made before this Court by the learned counsel for the petitioner are that the application was moved in the light of the fact that the additional issues were framed by the learned trial Court on 27/01/2022, and therefore, he wants to recall the witnesses for cross-examination. The said ground does not appear in the application and therefore, the order passed by the learned trial Court cannot be faulted with on the ground which was never argued or raised in the application before the learned trial Court.

7. In the circumstances, I do not find any merit in the present writ petition, accordingly, the same is **dismissed**.