

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

WRIT PETITION NO. 2536 OF 2021

Abhijit Pandurang Alsı ____ Vs. ____ Vijay Shridhar Alsı and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.S.S.Sohoni, Advocate for petitioner

Mr. A.R.Deshpande, Advocate for Respondent No.1

Mr. Kartik Rao, Advocate h/f Mr. G.K.Sarde, Advocate for Respondent Nos.2 & 3

Ms. A.S.Athalye, Advocate for Respondent Nos. 4 to 6

CORAM : AVINASH G. GHAROTE, J.

DATE : 16/02/2023

1] The petition challenges the order dated 22.1.2021 below Exh.256, by which the application filed by the petitioner/plaintiff under Order 23 Rule 1 of CPC to delete the Defendant nos. 4 and 5 from the array of defendants has been rejected.

2] The petition is opposed by Mr. Deshpande, learned counsel for respondent no.1 contending that on an earlier occasion when the addition of the defendant nos. 4 and 5 was opposed by Writ Petition No.1693/2017, the same was opposed, as a result of which the petition came to be dismissed and therefore, costs may be imposed.

3] Mr. Sohoni, learned counsel for the petitioner upon instructions is agreeable to pay costs of Rs.5,000/-, accepting which statement, since the plaintiff is a *dominus litis* and does not reserve any right

nor seeks a liberty, but seeks simplicitor deletion of defendant nos. 4 and 5, the impugned order is hereby quashed and set aside and the application below Exh.256 is allowed, at the risk and consequences of the petitioner/plaintiff, however, subject to costs of Rs.5,000/- to be paid to respondent no.1 within a period of one week. The cost be deposited before the learned trial Court.

4] The petition is allowed in above terms.

JUDGE

Rvjalit