

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

WRIT PETITION NO.2519 OF 2023

Sushil S/o Sohanlal Agrawal .Vs. Naresh S/o Hanumanprasad Agrawal 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 D.N. Mehta, Advocate for the petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 19/04/2023

1. Heard.
2. The challenge is raised in the present writ petition, to the order below Exh.44 dated 23.02.2023 passed by the District Judge-5 and Additional Sessions Judge, Nagpur allowing the application moved by the respondent No.3 under Order I, Rule 10 of the Code of Civil Procedure (hereinafter referred to as "C.P.C.") to make him as party respondent to the appeal.
3. Admittedly, the respondent No.3 was party to the suit as defendant No.5 and in the appeal before the first appellate Court, he was not made party and therefore, he moved an application Exh.44 to add him as party respondent to the appeal.

4. The learned counsel for the petitioner submits that the application was not moved within time and it was moved belatedly. However, he has not pointed out that for moving application under Order I, Rule 10 of the C.P.C. any limitation is provided. At the same time, he has not disputing that the respondent No.3 was party to the suit before the trial Court and though he ought to have added as respondent to the appeal, he was not added by the appellant.

5. In the above referred facts and circumstances, I do not find any error committed by the learned lower Appellate Court in allowing the application moved by the respondent No.3 for addition of party.

Accordingly, the writ petition is **dismissed**.

JUDGE