



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

WRIT PETITION (WP) NO.4310 OF 2023

- 1) Dr. Rameshchandra Champalaji
Dangara Age about 83 years,
Occupation – Medical Practitioner,
R/o Balaji Fail, Shegaon, Dist.
Buldhana.
- 2) Ramesh Tulshidas Gandhi,
Age 74 years, Occupation : Agriculture,
R/o Matkari Gali, Shegaon, Tq.
Shegaon, Dist. Buldhana.
- 3) Dinesh Radheshyam Laddha,
Age 63 years, Occupation : Business,
R/o Vyankatesh Nagar, Shegaon, Tq.
Shegaon, Dist. Buldhana.
- 4) Vinod Rameshwar Sharma,
Aged 58 years,
Occupation : Service, R/o Bhairav
Chowk, Shegaon, Tq. Shegaon, Dist.
Buldhana.
- 5) Satyanarayan @ Satish Fattelal
Chandak, Age 75 Years, Occupation :
Business, R/o Plague Gin, Shegaon, Tq.
Shegaon, Dist. Buldhana.
- 6) Jagdishji Ramgopalji Rathi,
Age 89 about years, Occupation :
Agriculture, R/o Chandralok Society,
Shegaon, Tq. Shegaon, Dist. Buldhana.

.... Petitioner(s)

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- 1) Rajeshkumar Jugalkishore Tibdewal,

Age-- years, Occupation : Business, R/o
Housing Society, Shegaon, Tq.
Shegaon, Dist. Buldhana.

... Respondent(s)

Ms Sonali Saware-Gadhawe, Advocate for the Petitioner/s
Shri D.S. Patil, Advocate for the respondent-sole

CORAM : ANIL S. KILOR, J.
DATED : 23.08.2023

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by consent by the parties.
3. The order dated 14.02.2012, issuance of summons was recalled by the impugned order below Exh.1 dated 12.09.2022. Thereupon, an application Exh.119 was filed to recall the said order below Exh.1, pointing out that because of certain reasons and lapses on the part of the office, the process fee and witness stipend could not be paid by the petitioners. The said application also came to be rejected without recording any reasons, which shows that the reasons stated in the application Exh.119 was not at all considered by the trial Court.

4. No doubt there was a delay in payment of process fees and witness stipend, however, such delay has been tried to explain by the petitioners vide Exh.119, which is not considered by the trial Court.

5. In the circumstances, I am of the opinion that the petition needs to be allowed by granting an opportunity to the petitioners to pay the process fees and witness stipend, in pursuance to the order below Exh.117 dated 14.02.2022. Accordingly, I pass the following order:

(i) The writ petition is **allowed**.

(ii) The orders below Exhs.1 and 119 dated 12.09.2022 passed by Civil Judge Senior Division, Khamgaon in Special Civil Suit No.19 of 2012, are hereby quashed and set aside, subject to payment of process fee and witness stipend as per the order below Exh.117 dated 14.02.2022 within three weeks from today.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]