



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

WRIT PETITION NO. 7198 OF 2022

Laxminarayan S/o Kuchaiyya Katarpawar
Aged about 67 years, Occupation: Business
carrying on business at Samiullah Khan Marg,
Gandhi Chowk, Sadar, Nagpur 440 001

...Petitioner

// VERSUS //

1. Asif Pasha S/o Mohammad Abdul Basit Qureshi
Aged about 60 years, Occupation : Business
R/o Samiullah Khan Marg, Gandhi Chowk,
Sadar, Nagpur 440 001
2. Rubina D/o Mohammad Abdul Basit Qureshi,
Aged about 54 years, Occupation Service
Resident of Samiullah Khan Marg, Gandhi
Chowk, Sadar, Nagpur 440 001
3. Parvez S/o Mohammad Abdul Basit Qureshi
Aged about 51 years, Occupation :Service
Resident of Samiullah Khan Marg, Gandhi
Chowk, Sadar, Nagpur 440 001
4. Shariq S/o Mohammad Abdul Basit Qureshi,
Aged about 49 years, Occupation Business
Resident of Samiullah Khan Marg, Gandhi
Chowk, Sadar, Nagpur 440 001

... Respondents

Shri S.R.Bhongade, Advocate for the petitioner.

Shri Masood Shareef, Advocate for the respondent nos. 1 to 4.

CORAM : ANIL S. KILOR, J.
DATED : 4th OCTOBER, 2023.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. The application moved by the petitioner for adjournment in a suit for ejectment and possession wherein the petitioner is the defendant, came to be rejected vide order below Exhibit 1 dated 13th October, 2021 and his evidence was held as closed.

3. Thereupon, application for setting aside the order dated 13th October, 2021 was filed which came to be rejected vide order dated 6th April, 2022 and even the application for review of the same came to be rejected vide impugned order dated 16th July, 2022, passed by the learned Small Causes Court, Nagpur in Regular Civil Suit No. 254 of 2011. Hence, this petition.

4. After going through the application for adjournment, I am of the opinion that the learned trial Court ought to have granted one more opportunity to the petitioner to examine his witness. It is informed that the said witness is his son who is a practicing lawyer and is the last witness to be examined by the defendant.

5. In that view of the matter and considering the fact that the respondent had also gave no objection before the trial Court to examine the witness while filing his say to the application for review, I am of the

opinion that the present writ petition needs to be allowed. Accordingly, I pass the following order.

- i. The writ petition is allowed.
- ii. The orders dated 6th April, 2022 and 16th July, 2022 passed by learned Small Causes Court, Nagpur in Regular Civil Suit No. 254 of 2011 are hereby quashed and set aside;
- iii. The petitioner has undertaken to examine his witness on the next date and would close his side.

6. At this stage, learned counsel for the respondents makes a request that since the suit is pending since 2011, that may be expedited.

7. Considering the fact that the suit is pending since 2011, the learned trial Court is directed to expedite the suit and in any case, decide the same within four months from today.

[ANIL S. KILOR, J.]