



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

Writ Petition No.510 of 2024

**RADHESHYAM S/O MULCHAND SHARMA (DEAD) THR. LRS.
VS
SHRINIWAS S/O NANDKISHOR GUPTA**

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

Court's or Judge's Order

Shri P.V. Ghare, Advocate for the Petitioner/s
Shri Deepak Paunikar, Advocate for the respondent-sole

CORAM : ANIL S. KILOR, J.
DATE : 17.04.2024

1. Heard.
2. In this petition, a challenge is raised to the order below Exh.51 and order below Exh.52 dated 29.09.2023 passed by the Adhoc District Judge-5, Nagpur in Regular Civil Appeal No.257 of 2016.
3. By the application Exh.51 under Order 6 Rule 17 of the Code of Civil Procedure, for amendment of appeal memo, the petitioners are seeking to add two additional grounds in view of the subsequent events.
4. Whereas the application Exh.52 is under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure is for remand of the matter to the trial Court.
5. As far as the application Exh. 51 is concerned, the petitioners have pointed out that the similar suit, for eviction

filed by the landlord against another tenant, came to be dismissed and against the same, the appeal is pending.

6. As far as the amendment is concerned, I do not find any reason to reject the same as it will not cause any prejudice to the landlord. Thus, I am of the opinion that the rejection of the application Exh.51, is erroneous.

7. As far as the order below Exh.52 is concerned, the Court has observed that the issue of remand can be decided at the time of final hearing.

8. Since this order cannot be termed as against the petitioner, I do not find any reason to interfere with the order below Exh.52.

9. In the circumstances, the writ petition is **allowed** to the extent of order below Exh.51 dated 29.09.2023 passed by the Adhoc District Judge-5, Nagpur in Regular Civil Appeal No.257 of 2016, is hereby quashed and set aside and consequently, the application Exh.51 is allowed.

10. Whereas, the writ petition is **dismissed** to the extent of challenge raised to the order below Exh.52 dated 29.09.2023 passed by the Adhoc District Judge-5, Nagpur in Regular Civil Appeal No.257 of 2016.

[ANIL S. KILOR, J.]