



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

WRIT PETITION NO.6168/2022

Mr. Sanjay S/o Shriramji Pendharkar

...Versus...

Mr. Harichand S/o Dadumal Nagpal and others

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

Court's or Judge's orders

Mr. N.G. Jetha, Advocate for petitioner
Mr. S.S. Dewani, Advocate for respondent nos.1 to 3

CORAM : N.R. BORKAR, J.

DATE : 02/07/2024

1. This petition takes exception to the order dated 22/10/2021, passed by the Civil Judge Senior Division, Nagpur below Exh.35 in Special Civil Suit No.408/2020.
2. The petitioner herein has filed the suit for declaration, injunction and cancellation of sale-deed. According to the petitioner, the transaction between him and contesting respondent nos.1 to 3 was of a hand loan.
3. In a written statement filed by the contesting respondent nos.1 to 3 they referred to few more documents allegedly executed by the petitioner. The application was thus moved by the petitioner seeking permission to amend the plaint and to incorporate the plea that he had not executed the said documents. The trial Court has rejected the said application by the order impugned.

4. Considering the fact and circumstances, the trial Court ought to have allowed the application and ought not to have rejected it on the ground that the trial of suit has commenced. The order impugned is, thus, set aside. The application filed by the petitioner is allowed. Needless to mention that the trial Court shall permit the respondent nos.1 to 3 to carry out the consequential amendment to their written statement, if the same is sought.

5. The writ petition is disposed of in the aforesaid terms. No order as to costs.

(N.R. BORKAR, J.)