



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

Misc. Civil Application (MCA) No. 272 of 2024
in
Writ Petition (WP) No. 931 of 2024

Meerabai alias Kusum Devchand Nagose
Versus
Dnyaneshwar S/o Parasram Bharadkar 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 S.G.Karmarkar, Advocate for the petitioner.
Shri A.H.Dhargawe, Advocate for the respondent Nos.
7 to 10.

CORAM : N.R.BORKAR, J.
DATED : 23rd OCTOBER, 2024.

This review petition is filed seeking review of the order dated 9th February, 2024 passed by this Court in Writ Petition No. 931 of 2024.

2. The petitioner herein is a defendant no. 7 in a suit filed by respondent nos. 7 to 10 herein for declaration, partition and separate possession of the suit properties. Respondent nos. 1 to 6 herein are defendant nos. 1 to 6 in the said suit.

3. According to the petitioner, she came to know about filing of the suit on 5th November, 2022.

After appearing in the suit she found on the record of the suit a composite written statement dated 21st April, 2016 purportedly filed by her along with defendant nos. 1 to 6. According to the petitioner, she was never served with suit summons and she never instructed defendant nos. 1 to 6 to file the written statement on her behalf.

4. By filing application application at Exh.84, she thus sought permission to file separate written statement. The trial Court by order dated 27th October, 2023 rejected the said application on the ground that in absence of any provision, the same cannot be allowed. This Court by order of which review is sought has confirmed the order passed by the trial Court.

5. It is not in dispute that suit summons was not personally served upon the petitioner. The serious allegations were made. The trial Court without inquiring into the allegations rejected the application. The trial Court lost sight of the fact that the petitioner was entitled to file a written statement, if it would have been found that she never instructed defendant nos. 1 to 6 to file written statement on her behalf. However, instead of remanding the matter back to the trial Court, considering the facts and circumstances of the case the following order is passed :

i. Learned trial Court shall permit the petitioner to file her separate written statement, if not already filed and then shall decide the suit in accordance with law.

6. The review petition is disposed of in aforesaid terms.

[N.R.BORKAR, J.]