



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

WRIT PETITION NO. 3229 OF 2023

(AKSHAY VIJAYRAO DESHMUKH..VS.. ASHOK YASHWANT BADUKALE & OTH.)

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

Court's or Judge's orders

Shri P.A.Kadu, Advocate for Petitioner.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 27, 2024.

1. Heard.
2. The application moved by the respondent No.2 under Order XX Rule 4A of the Code of Civil Procedure for representing the deceased-Kausalyabai (plaintiff) came to be allowed vide impugned order dated 22/12/2022 by Civil Judge Junior Division, Mahagaon, the same is under challenge in this writ petition.
3. The only ground raised by the petitioner is that as contemplated by Clause (b) of sub-rule (2) of Rule 4A of Order XX of the Code of Civil Procedure, the Court has to ascertain that, the person proposed to be appointed to represent the estate of the deceased person is willing to be so appointed and has no interest adverse to that of the deceased person.

4. As far as willingness to be so appointed as a person to represent the estate of the deceased is concerned, the application was moved by the respondent No.2 himself. Therefore, the only aspect remains is to ascertain whether the respondent has no interest adverse to that of the deceased person.

5. Nothing has been pointed out by the petitioner against the respondent No.2 to arrive at a conclusion that he has any interest adverse to that of the deceased-Kauslyabai.

6. In absence of any such material available on record or pointed out by the petitioner, only on a technical ground that no such finding is recorded by the trial Court in the impugned order, I am not inclined to interfere with the impugned order.

7. Accordingly, the writ petition is **dismissed**. No order as to costs.

JUDGE