



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

WRIT PETITION NO. 4681/2023

Jagdish Ramprasad Kesharwani and Others . .Vs. Sau. Kanchan Mahendra
Singhwi and Others.

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

Court's or Judge's orders

Mr. A. S. Deshpande, Advocate for petitioners.
Mr. G. R. Kothari, Advocate for respondent No.1.
Mr. J. Matale, Advocate for respondent Nos. 2 to 8.

CORAM : ANIL L. PANSARE, J.

DATE : 13.06.2024

Challenges is to the order dated 27.06.2023, passed below Exh.-67, in Regular Civil Appeal No.24/2017, by the First Appellate Court. This Court, on 26.07.2023, passed the following order:

“1] The impugned order dated 27.6.2023 has the effect of rejection of Exh.67, an application under Order 41 Rule 27 of the CPC filed by the petitioner/appellant in the appeal, based upon the judgment in Union of India vs Ibrahim Uddian, (2012) 8 SCC 148, which is incorrect, as what the Court ought to have done was to have kept the application pending and considered the same at the time of final hearing, considering which issue notice for final disposal returnable on 7.8.2023.

2] Mr. G.Kothari, learned appears for respondent no.1.

3] The petitioner shall serve the other respondents by all modes permissible in law, including Hamdast.”

Learned counsel for the respondents submit that in terms of the law laid down by the Supreme Court in the case referred to in the aforesaid order, the Court ought not to have

rejected the application Exh.-67 and should have considered the same at the time of final hearing.

In view of above, the order impugned is quashed and set aside. The application Exh.-67 is restored on the file. The First Appellate Court shall proceed to decide the application in terms of the judgment in the case of **Union of India Vs. Ibrahim Uddian** *supra*.

The parties shall appear before the First Appellate Court on 26.06.2023.

(Anil L. Pansare, J.)