



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

Writ Petition No.4556/2024
(State Bank of India V Rayni Murli)

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

Court's or Judge's orders

Mr. B. Mohata, Advocate for petitioner.

CORAM : N.R. Borkar, J.

DATE : 14-08-2024.

This petition takes exception to the order dated 26-06-2024 passed by the learned Civil Judge Senior Division, Bhandara (below Exhibit-43) in Special Civil Suit No.63/2018.

ii. The respondent herein has filed a suit against the present petitioner for recovery of possession of house property.

iii. By the order impugned, the learned trial Court has rejected the application filed by the present petitioner under Section 10 of the Code of Civil Procedure ("C.P.C.", for short).

iv. The learned Counsel for the petitioner submits that the application under Section 10 of the C.P.C. was filed to avoid conflicting decisions. It is submitted that the very same house property in relation to which the respondent has filed the suit is subject matter of the Second Appeal filed by the petitioner before this Court. It is submitted that the house property in question was mortgaged with the petitioner-Bank against the loan availed by the predecessor-in-title of the respondent. It is submitted that the loan amount was not paid and thus petitioner-Bank

took the possession of house property in question. It is submitted that, thereafter suit was filed for recovery of loan amount and the Second Appeal pending before this Court arises out of the said suit for recovery of loan amount filed by the petitioner. It is submitted that considering the overall facts and circumstances, the trial Court ought to have allowed the application filed by the petitioner under Section 10 of the C.P.C.

v. The suit in question is at the stage of evidence. There is no explanation for filing an application at such a belated stage. The Second Appeal filed by the petitioner is not yet admitted. Considering the overall facts and circumstances, I am not inclined to interfere with the order impugned. The petition is dismissed.

(N.R. Borkar, J.)