



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

Writ Petition (WP) No. 4805 of 2024

Ramvilas S/o Ganpatlal Dixit

Versus

M/s Tilak Tailors, through Pro. Shri Abdul Hafeez Sheikh Lal, Nagpur

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

Court's or Judge's Order

Shri S.B.Mohta, Advocate for the petitioner.

Shri Tanveer Iqbal Abdul Jabbar, Advocate for the
respondent.

CORAM : N.R.BORKAR, J.

DATED : 19th NOVEMBER, 2024.

This petition takes exception to the order dated 26th July, 2024 passed by the Judge, Small Causes Court, Nagpur, Below Exhibit 151 in Regular Civil Suit No. 380 of 2014.

2. The petitioner herein has filed a suit for eviction and possession against the respondent herein.

3. By the impugned order, the trial Court has rejected the application filed by the petitioner to discard the list of witnesses dated 5th April, 2024 filed by the respondent.

4. I have heard learned counsel for the petitioner and the learned counsel for the respondent.

5. Learned counsel for the petitioner submits in the list of witnesses filed by the respondent, he has not mentioned the purpose for which he wants to examine the said witnesses. It is submitted that filing of such list of witnesses is not permissible in view of the decision of the Hon'ble Supreme Court in Kokkanda B. Poodacha and others Vs. K.D.Ganpathi and another reported in (2011) 12 SCC 600. It is submitted that the impugned order therefore needs to be quashed and list of witnesses filed by the respondent needs to be discarded.

6. On the other hand, learned counsel for the respondent submits that it's a tentative list. It is submitted that the trial Court has observed that the concerned witness will be summoned only after examining, whether he is a material witness or not for deciding the dispute between the parties. It is submitted that no interference is thus called for in the impugned order.

7. The Hon'ble Supreme Court in Kokkanda B. Poodacha and others Vs. K.D.Ganpathi and another (supra) has held :

“We may add that if the parties to the litigation are allowed to file list of witnesses without indicating the purpose for summoning the particular person(s) as witness(es), the unscrupulous litigants may create a situation where the cases may be prolonged for years together. Such litigants may include the name of the advocate representing the other side as a witness and if the Court casually accepts the list of witnesses, the other side will be deprived of the services of the advocate. Therefore, it would be a prudent exercise of discretion by the Court to insist that the party filing the list of witnesses should briefly indicate the purpose of summoning the particular person as a witness.”

8. I have perused the list of witnesses. The respondent has not mentioned the purpose for which he wants to summons / examine them. The order impugned is therefore quashed. The trial Court shall discard the list of witnesses filed by the respondent.

9. It would be open to the respondent to file fresh list of witnesses in accordance with the law laid down by the Hon'ble Supreme Court in the case of *Kokkanda B. Poodacha and others Vs. K.D.Ganpathi and another* (supra).

10. The writ petition is disposed of in above terms.

[N.R.BORKAR, J.]