



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

Writ Petition No.6090/2024

(J.P. Realities Pvt Ltd and others V Mahesh 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. Masood Shareef, Advocate for the petitioners.
Mr. Akhtar Ansari, Advocate for resp. nos.1 and 2.

CORAM : N.R. Borkar, J.

DATE : 14-10-2024.

This petition takes exception to the order dated 09-09-2024 passed by the learned 9th Joint Civil Judge Senior Division, Nagpur below Exhibit-56 in Special Civil Suit No.1235/2022.

ii. By the order impugned, the learned trial Court has rejected the application by which permission was sought by the present petitioners/defendants to file written statement.

iii. I have heard the learned Counsel for the petitioners and the learned Counsel for the respondents.

iv. The learned Counsel for the petitioners submits that the application under Order 7 Rule 11 of the Code of Civil Procedure (for short, "CPC") was filed taking exception

to the jurisdiction of the Civil Court to try and entertain the suit. It is submitted that Special Leave Petition arising out of rejection of application under Order 7 Rule 11 of the Code is still pending before the Hon'ble Supreme Court and the Hon'ble Supreme Court has issued notice to the respondents. It is submitted that petitioners were hopeful that plaint would be rejected and thus petitioners did not file the written statement. The learned Counsel for the petitioners submits that the petitioners are ready to pay cost and they be permitted to contest the suit. On instructions, the learned Counsel for the petitioners submits that the petitioners are ready to pay cost of Rs. 5 Lakhs.

v. On the other hand, learned Counsel for the respondents has supported the order impugned.

vi. Considering the facts and circumstances of the case, the order impugned is set aside subject to payment of costs of Rs. 5 Lakh by the petitioners to respondent nos. 1 and 2 within a period of eight weeks.

vii. Subject to payment of cost, the learned trial Court shall take the written statement filed by the petitioners on record.

viii. The petition is disposed of in the aforesaid terms.

(N.R. Borkar, J.)