



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION NO. 2905 OF 2024
IN WRIT PETITION NO. 713 OF 2023 (D)

(Smt. Mohini wd/o Sudhir Bagade & Anr. Vs. Smt. Shilabai wd/o Tanbaji Bagade & Ors.)

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

Court's or Judge's orders.

Mr. V.G. Bhamburkar, Counsel for the applicants.

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CORAM : ANIL L. PANSARE, J.
NOVEMBER 19, 2024

By present application, the applicants – original petitioners are seeking to recall order 23/10/2024 passed in Writ Petition No. 713/2023 to the extent of imposing cost of Rs.10,000/- on the petitioners.

2] I have gone through the impugned order to find that the cost has been literally fetched by the petitioners' Counsel inasmuch as he insisted for hearing on merit without dealing with preliminary objection despite the judgment in the case of *Parvatabai @ Beby wd/o Parasram More and another Vs. Surekha @ Rekha wd/o Dashrath Surjuse [2019(5) Mh.L.J. 214]*, which deals with maintainability of petition, was brought to the notice of the learned Counsel. The learned Counsel continued to insist for hearing on merit. Such insistence was deprecated in the order and accordingly cost was imposed.

3] The learned Counsel submits that the petitioners are poor persons and not in a position to deposit the cost.

4] This ground, however, cannot be entertained. The learned Counsel ought to have been careful while insisting on orders after putting him to notice of certain relevant facts, which require hearing on preliminary objection. Having not done so and having unnecessarily insisted for hearing on merit, I do not find any reason to recall the order so passed by the Court.

5] The application is rejected.

(ANIL L. PANSARE, J.)

Sumit