



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

Writ Petition No.109/2024

(M/s Tapi Prestressed Product Ltd V M/s K.S. Wahane 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. R.S. Kalangiware, Advocate for petitioner.
Mr. P.B. Patil, Advocate for respondent no.2.

CORAM : N.R. Borkar, J.
DATE : 03-09-2024.

. This petition takes exception to the order dated 23-08-2023 passed by learned 4th Joint Civil Judge Senior Division, Nagpur (below Exhibit-55) in Special Civil Suit No.933/2015.

ii. The respondent no.1 herein has filed a suit for recovery of amount against the present petitioner. By order dated 17-04-2023 the learned trial Court directed the suit to proceed *exparte* against the present petitioner.

iii. By the order impugned, the learned trial Court has rejected the application to recall the order dated 17-04-2023.

iv. This Court by order dated 08-01-2024 has issued notice to the respondents for final disposal. In spite of service, none appears for the contesting respondent no.1.

v. Admittedly the application for recall of the order dated 17-04-2023 was filed on the very next day i.e. on 18-04-2023. In that view of the matter, the learned trial Court ought to have granted opportunity to the petitioner to contest the suit. The orders impugned, therefore, can not be allowed to stand and are hereby quashed and set aside.

vi. The learned trial Court shall permit the petitioner to file written statement and then shall decide the suit in accordance with the law. The petitioner shall file the written statement within a period of four weeks from today.

vii. The petition is disposed of in aforesaid terms.

(N.R. Borkar, J.)