



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3940 OF 2025

**NABA DEVELOPER PRIVATE LTD HINGOLI THROUGH ITS
DIRECTOR**

VERSUS

MUZAMMIL ISA KHAN AND OTHERS

...

Mr. Hamzakhan I. Pathan, Advocate for the Petitioner.

Mr. D. R. Korade, AGP for Respondents-State.

Mr. S. S. Gangakhedkar, Advocate for Respondent Nos.1 and 2.

...

WITH

CIVIL APPLICATION NO. 5103 OF 2025

IN WP/3940/2025

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 11th JULY, 2025.

P.C.:-

1. The present Writ Petition is filed impugning orders dated 02.09.2024 and 19.12.2024 passed below Exhibits 57 and 58 respectively in Regular Civil Suit No.225/2024 pending before Civil Judge Senior Division, Nanded.

2. Mr. Gangakhedkar, learned Advocate appearing for respondent nos.1 and 2 invites attention of this Court to the impugned orders and submits that so far as challenge under Section 10 of Code of Civil Procedure is concerned, that would not survive since Regular Civil Suit No.577/2023 is now withdrawn. So far as challenged to order below Exhibit-57, Mr. Gangakhedkar submits that application filed by petitioner under Order VII Rule 11 of Code of Civil Procedure is rejected. Therefore, Writ Petition

would not be maintainable. In such cases, appropriate remedy is to file a Civil Revision Application against such an order. He would, therefore, urge that Writ Petition be dismissed.

3. Mr. Pathan, learned Advocate appearing for petitioner graciously accepts that so far as his challenge to order on application under Section 10 of Code of Civil Procedure is concerned, it would not survive. However, so far as his challenge to order passed below Exhibit-57 in application under Order VII Rule 11 of Code of Civil Procedure, he would file Civil Revision Application with liberty from this Court. However, he urges that interim protection granted be continued for limited period so as to enable him to file Civil Revision Application.

4. Considering submissions advanced, Writ Petition stands **disposed of** with liberty in favour of petitioner to file Civil Revision Application against order passed below Exhibit-57 (order passed on application for rejection of plaint). If Civil Revision Application is filed within period of 15 days from today, interim relief as granted under order dated 02.04.2025 shall be deemed to continue till filing of Civil Revision Application. Time consumed in prosecuting present Writ Petition shall be considered while computing period of limitation.

5. In view of disposal of Writ Petition, pending Civil Application also stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2025