



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO. 7793 OF 2024

1. Shri. Dilipkumar s/O. Bhuralal Sharma
Age : 63 years, Occ : - Business,
R/o- M/s. Sharma Brothers, Station Road,
Behind Jain Mandir, Chalisgaon
Dist-Jalgaon.
2. M/s. Sharma Brothers-Unregistered
Partnership Firm through his Partner,
Shri Dilipkumar S/o Bhuralal Sharma
Age :- 63 Years, Occ:- Business,
R/o- M/s. Sharma Brothers, Station Road,
Behind Jain Mandir, chalisgaon
Dist-Jalgaon

...Petitioners

VERSUS

1. Shri. Santhosh Shivprasad Sharma
Age-59, Occu- Business,
(Partner of M/s Sharma Brothers),
R/o- Shivaji Chowk, Kargaon Road,
Chalisgaon, Dist-Jalgaon.
2. Shri. Anup Dilipkumar Sharma,
Age-33, Occu- Business,
R/o- M/s. Sharma Brothers, Station Road,
Behind Jain Mandir, Chalisgaon
Dist-Jalgaon
3. Sau. Asha Dilipkumar Sharma,
Age-58, Occu-Housewife,
R/o- Sashikala Nagar,
Near Swami Samarth Kendra,
Chalisgaon, Dist- Jalgaon.
4. Shri. Sandip Pralhad Patil,
Age-Major, Occu-Service,

R/o- Vasti-Sitamai Nagar,
Chalisgaon, Dist- Jalgaon.

5. Sau. Lata Santosh Sharma,
Age-55 yrs, Occu-Housewife,
R/o. Vasti-Shivaji Chowk,
Kargaon Road, Chalisgaon,
Dist-Jalgaon.
 6. Shaikh Chand Shaikh Raheman,
Age-72 yrs, Occu-Retired,
R/o. Vasti-Raheman Nagar, Pawarwadi
Chalisgaon, Dist-Jalgaon.
 7. Sayedbee Yusuf Sayyed,
Age-61 yrs, Occu-Housewife,
R/o. Vasti-Raheman Nagar, Pawarwadi
Chalisgaon, Dist- Jalgaon.
 8. Shri. Pradif Somnath Kalantri,
Age-Major, Occu- Business,
 9. Shri. Ashok Somnath Kalantri,
Age-Major, Occu-Business,
Both are R/o. Vasti-Dudhsagar Marg
Near Gurukul School, Chalisgaon,
Dist-Chalisgaon
- ...Respondents

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Mr. Thoke Dhananjay B, Advocate for the Petitioner.
Mr. Ujwal S. Patil, Advocate for Respondent No.1.

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CORAM : ROHIT W. JOSHI, J.
DATED : 11th JULY 2025

ORAL JUDGMENT :-

1. The learned Advocate for the petitioner tenders compilation of order sheet across the bar. The same is taken on record.

2. The present petition is filed assailing three separate orders dated 07.06.2024 passed by the learned Civil Judge Senior Division, Chalisgaon on applications below 'Exhibits-21', 'Exhibit-34' and 'Exhibit-35' in Special Civil Suit No.68 of 2024. The learned Counsel for the petitioner at the outset states that the petition is not being pressed with respect to orders passed below 'Exhibits-21' and 'Exhibit-35' i.e. applications for framing preliminary issue and return of plaint. The petition is therefore disposed of as withdrawn with respect to orders dated 07.06.2024 passed below 'Exhibit-21' and 'Exhibit-35'.

3. As regards the application below 'Exhibit-34', which is an application for grant of temporary injunction filed by respondent no.1/original plaintiff, perusal of order sheets filed on record by the petitioner will demonstrate that the application at 'Exhibit-34' is decided without hearing the petitioners. It will be pertinent to mention here that application at 'Exhibit-34' is filed on 06.10.2023. The Advocate for the petitioner has tendered across the bar order sheets of the subsequent dates. Perusal of the order sheets will demonstrate that the application at 'Exhibit-34' was kept for reply till 16.02.2024. On 16.02.2024 order was passed below Exhibit-34 to proceed without reply of defendant nos.5, 7 to 10 and the matter was

fixed for hearing at 'Exhibit-34'. On 16.02.2024, the matter was adjourned to 03.03.2024. In the event the matter was sent to Lokadalat to explore possibility of settlement. On the next date i.e. 03.03.2024 matter was returned with an endorsement that settlement talks had failed, case was adjourned to 15.03.2024 and thereafter to 04.04.2024, 16.04.2024 07.05.2024, 09.05.2024, 22.05.2024, 04.06.2024 and 06.06.2024. Perusal of the order sheets of these dates will demonstrate that on all these dates, the matter was posted for orders on 'Exhibit-21' and 'Exhibit-35' and hearing on 'Exhibit-34'. This 'Exhibit-34' was not heard till 06.06.2024. As stated above, all the three applications are decided on 07.06.2024. Perusal of order sheet dated 07.06.2024 will demonstrate that on the said date the plaintiff and his advocate as also the defendants and their advocates were absent. It is therefore obvious that the submissions were not advanced on the application at 'Exhibit-34' even on 07.06.2024.

4. As is apparent from order sheets prior to 07.06.2024, the parties were not heard on application at 'Exhibit-34' till 07.06.2024. Order sheet dated 07.06.2024 also reveals that parties were not heard. It is therefore apparent on the face of record that order dated 07.06.2024 is passed without hearing the parties. The observation in

paragraph 6 of order dated 07.06.2024 that the learned Court had heard Advocates for both the parties is contrary to the record.

5. In view of the above, order dated 07.06.2024 passed below 'Exhibit-34' in Special Civil Suit No.68 No. 2024 is quashed and set aside.

6. Clause-3 in the operative order of the order dated 07.06.2024 passed below 'Exhibit-34' records that application at 'Exhibit-42' filed by the defendants is rejected. The perusal of the said order does not indicate any reference to Exhibit-42. It appears that there is a typographical error and the same inadvertently incorporated.

[ROHIT W. JOSHI, J.]