

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 10933 OF 2024
IN
WRIT PETITION NO. 1831 OF 2024

Mr. Ashok Baburao Wade

....Applicant
(Orig. Resp. No.1)

V/s.

Mr. Manoj Ramesh Pimple

....Respondent
(Orig. Petitioner)

IN THE MATTER BETWEEN :

Shri. Manoj Ramesh Pimple

....Petitioner

Versus.

Shri. Ashok Baburao Wade & Ors.

....Respondents.

Mr. Vijay Kurle, *for the Applicant.*

Ms. Yogita Deshmukh-Chitnis, *for the Respondent.*

Mrs. Vaishali Nimbalkar, *AGP for Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 20 January 2025.

P.C. :

1) This application is filed for conduct of enquiry under the provisions of Section 340 of the Criminal Procedure Code (**Code**) for commission of offence under the provisions of Section 195(1)(b) of the Code.

2) I have heard Mr. Kurle, the learned counsel appearing for the Applicant and Ms. Deshmukh, the learned counsel appearing for the Respondent/Original Petitioner.

3) The Applicant has sought initiation of proceedings under Section 340 of the Code against the Respondent/Original Petitioner on the ground that the Original Petitioner produced at page-47 of the main writ petition, copy of Affidavit filed alongwith the nomination with a handwritten remark 'Gavthan' when infact such a remark is not found on the original Affidavit alongwith the nomination. This aspect is clarified by Ms. Deshmukh, by submitting that the handwritten remarks such as '*Gaonthan, Boisar and Gala*' were made by person/advocate arguing the proceedings before the Collector/Additional Divisional Commissioner and that the said handwritten remarks were inadvertently not erased while attaching copy of the concerned affidavit alongwith the petition. I find this justification to be acceptable.

4) The second ground on which initiation of action under section 340 of the Code is sought on an assertion that the Original Petitioner made a false statement before this Court that he has no relation with the property bearing Survey No.712 when infact he had made a declaration in the affidavit alongwith the nomination claiming interest in property at survey no.712. Mr. Deshmukh would invite my attention to paras-3 and 4 of the memo of Writ Petition in which Petitioner has apparently averred that he started residing with his family in House no.712 after separation from his parents. Thus, the stand of the Petitioner, both in the nomination affidavit, as well as in the memo of the Writ Petition appears to be consistent qua property at Survey no.712. Considering the above aspect, I am not inclined to direct initiation of action/enquiry under the provisions of Section 340 of the Code. The Interim Application is accordingly rejected

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signed by
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[SANDEEP V. MARNE, J.]