

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5894 OF 2025

Tapi Prestressed Products ltd ..Petitioner

Versus

The State of Maharashtra Through Collector ...Respondent

Mr. Nikhil Wadikar (through VC), with Rushikesh Desai, i/b Nandu
Pawar, for the Petitioner.

Mrs. Vaishali Nimbalkar, AGP, for Respondent No.1-State.

CORAM: N. J. JAMADAR, J.

DATED : 7th MAY 2025

P.C.:

- 1.** Heard the learned Counsel for the parties.
- 2.** The challenge in this Petition is to an order dated 29th November 2024, whereby the learned Civil Judge, Senior Division, Wai, has directed that the Suit be registered as a commercial Suit.
- 3.** Mr. Wadikar, the learned Counsel for the Petitioner, submits that the Petitioner was not heard when the impugned order was passed. The learned Counsel invites attention of the Court to an order passed below Exhibit 5 to which a reference is made in the impugned order. In paragraph 24 of the said order, the trial Court had recorded a finding that it has jurisdiction to entertain and try the said Suit.
- 4.** In this view of the matter, if the learned Civil Judge was of the view that the Suit was required to be registered as a commercial suit,

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the Plaintiff ought to have been provided an opportunity of hearing. From the perusal of the impugned order, it does not appear that such an opportunity of hearing was given to the Plaintiff. The order seems to have been passed on the basis of the observations in the order below Application/Exhibit “5”.

5. In the aforesaid view of the matter, this Court does not consider it necessary to issue notice to Respondents, and, instead, remit the matter back to the trial Court for deciding the issue of registration of the Suit as a commercial suit, after providing an opportunity of hearing to the parties.

6. Hence the following order:

The Petition stands disposed in the following terms:

- (i) The order dated 29th November 2024 directing the registration of the suit as a commercial suit stands quashed and set aside.
- (ii) Special Civil Suit No. 95 of 2023 stands remitted back to the file of CJSD, Wai.
- (iv) The learned CJSD, Wai, is requested to hear and decide the issue of registration of the suit as a commercial Suit after providing an opportunity of hearing to the parties.

[N. J. JAMADAR, J.]