



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

MISC. CIVIL APPLICATION NO. 909/2024 IN
WRIT PETITION NO.1494/2022

M/s. Jalraj Pharma through Partner Shri Surendra Madhukarrao Yerawar .Vs. Patel & Company, Nagpur thr. Its Proprietor Mr. Abdul Shahid Patel (Tarique Patel) & Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M. G. Bhangde, Senior Advocate assisted by
Mr. A. G. Baheti, Advocate for applicant.
Mr. A. V. Palshikar, A.G.P for non applicant Nos.2 and 4.
Mr. F. T. Mirza, Senior Advocate assisted by
Mr. S.O. Ahmed, Advocate for non applicant Nos.3,5,6 and 7.
Mr. H. R. Gadhia, Advocate for Non applicant No. 7.
Mr. A. P. Chaware, Advocate for non applicant No. 4

CORAM: AVINASH G. GHAROTE & ANIL L. PANSARE, JJ.

DATE OF RESERVING THE ORDER : FEBRUARY 6, 2025

DATE OF PRONOUNCING THE ORDER: FEBRUARY 12, 2025.

Heard.

2. The applicant was not party to Writ Petition No.1494/2022 but sought and was granted leave, to seek review of judgment dated 25.01.2023, passed by Division Bench of this Court (Coram : Sunil B. Shukre and Anil L. Pansare, JJ), *inter alia*, on the ground that non applicant No.1 – original petitioner, failed to disclose and thus suppressed the material facts from this Court.

3. Mr. M. G. Bhangde, learned Senior Counsel for the applicant, contends that Writ Petition No.1494/2022 was heard by the Division Bench of this Court and was reserved for judgment on 25.11.2022. The judgment was pronounced on 25.01.2023. Notably, during the intervening period i.e. in

December, 2022, the Oxygen manufacturing plant of non applicant No.1-Original petitioner was closed, a fact which has been not disputed by Mr. F. T. Mirza, learned Senior Counsel appearing for non applicant No.1. However, he asserts that since the arguments had been concluded and judgment reserved, the subsequent development should be deemed inconsequential and not a deliberate act.

4. While it may be the position of non applicant No.1, that such development is inconsequential, we find the non disclosure of fact to be a sufficient reason to allow the application, inasmuch as the insistence of non applicant No.1, through the aforesaid writ petition, for allotment of plot in question, located at Hingna was deemed reasonable by the Court given that non applicant No.1 was operating an Oxygen Cylinder Plant in close proximity to the plot. The MIDC had otherwise offered a plot at Butibori Industrial Area to non applicant No.1.

5. In the circumstances, if the plant was closed, the request of non applicant No.1 for allotment of plot at Hingna, necessitates consideration to ascertain his entitlement for the reliefs sought on account of non disclosure of a material fact, which was specifically within the knowledge of non applicant No.1, who owed a duty to the Court to bring it on record even though the matter was closed for judgment. Whether the non disclosure will yield a different outcome is a separate consideration, however, the development is pertinent to the resolution of controversy at hand.

6. In that view of the matter, we find it imperative to revisit the judgment, sought to be reviewed.

7. Accordingly, the application seeking review of the judgment is hereby allowed. Judgment dated 25.01.2025 in Writ Petition No.1494/2022 is recalled. Writ Petition No. 1494/2022 is restored to the file and shall be listed for hearing before the appropriate Bench.

8. In the circumstances, there shall be no order as to costs.

(Anil L. Pansare, J.)

(Avinash G. Gharote, J.)

Kahale