



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

WRIT PETITION NO.2095/2025

Sagar Arunrao Gode .Vs. Satish Bhagwantrao Jirapure

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

Court's or Judge's orders

Mr. S. M. Vaishnav, Advocate for petitioner.

CORAM : **ANIL L. PANSARE, J.**

DATE : **JUNE 17, 2025**

On 17.04.2025, following order was passed.

"Heard.

2. Suit filed by petitioner came to be dismissed vide judgment and decree dated 06.05.2024. The petitioner sought review, which came to be allowed in following terms.

"1. The application is allowed.

2. Call record and proceeding of the suit for the purpose of argument. The suit i.e. Spl.C.S.No.107/2019 be restored for the purpose of argument.

3. The suit is kept for argument and decision on 27/03/2025.

4. Parties are at liberty to make submission if any.

5. The parties to bear their own costs."

3. Thereafter, the petitioner preferred application Exh.-95 for notice to produce documents. The Trial Court rejected the same vide order dated 29.03.2025 on the ground that though the review application was allowed, it was allowed on the limited ground i.e. for argument and also on the point of issue of receipt of cheque and the entitlement of plaintiff for declaration as prayed for in the plaint.

4. Contention is that the review once allowed, cannot be restricted for one or the other purpose and opportunity ought to be given to the parties if contingency so arises to file application for production of documents.

5. Issue notice to the respondents, returnable in two weeks.

6. In addition to the usual mode of service, the petitioner is permitted to serve the respondents by all permissible modes including service by speed post and shall file affidavit of service. In addition, the petitioner shall also serve the respondent through counsel appearing before the Trial Court.

7. In the meantime, if the application seeking adjournment, is filed by the petitioner, the same shall be considered favourably by the Trial Court.

8. The petitioner shall submit compliance of practice note No.14 of the Bombay High Court Appellate Side Rules, 1960, particularly clause (5) thereof.

9. List in the week commencing from 05.05.2025.”

2. As could be seen, the Trial Court has, though allowed the review application but for the purpose of arguments in Special Civil Suit No.107/2019. Accordingly, the application preferred by petitioner seeking production of document has been rejected on the ground that the review is for limited purpose of argument.

3. Mr. S. M. Vaishnav, learned counsel for the petitioner submits, and rightly so, that once review application is allowed, the Trial Court which is a Court of record and of first instance, should afford opportunity to the parties to place on record the relevant material because ultimate aim of trial is to discern the truth.

4. The respondent, thought served, did not appear on 07.05.2025 when the petition was listed, which was adjourned for today for giving another opportunity to the respondent. However, today also, none appeared for the respondent and, therefore, the contention put forth by the petitioner remained uncontroverted.

5. Thus, it appears that the Trial Court restored the suit only for the purpose of argument. To my mind, even if the suit was restored for limited purpose, one has to bear in mind that the purpose of filing the suit and the trial is to discern the truth and thereafter all endeavor should be made to get on record the material

which is relevant. One of the ways of achieving this target is to permit the parties to place on record the relevant material, of course, subject to valid restriction. At the same time, the application which deals with the vital issues, should be dealt with liberally. The Trial Court ought to have decided application Exh.-95 on its own merit.

6. In that view of the matter, the order impugned is unsustainable. The petition is accordingly allowed. Impugned order dated 29.03.2025 passed below Exh.95 in Special Civil Suit No.107/2019 is quashed and set aside.

The Trial Court shall permit the parties to place on record the relevant documents/material unless otherwise barred by law.

The Trial Court shall accordingly rehear the application Exh.-95, afresh in accordance with the law.

The writ petition is disposed of in terms of above. No order as to costs.

(Anil L. Pansare, J.)