



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

WRIT PETITION NO.2844 OF 2025

SANJAY S/O. ANANDRAO CHAMBHARE AND ANOTHER
VERSUS
VITTHAL S/O. ZINGUJI FATING AND ANOTHER

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Apurv De, Advocate for Petitioners.
Mr. Rohan R. Deo, Advocate for Respondent No.1.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 06th OCTOBER 2025

1. Learned Advocate for the petitioners submits that the notices sent to respondent Nos.2-A and 2-B are received back with the postal endorsement as unclaimed and thus, respondent Nos.2-A and 2-B are served. He invites attention of this Court to the *pursis* dated 20.06.2025, filed by the petitioners in this regard.

2. The controversy involved in the petition is very short. The petitioners are appellants in R.C.A. No.145 of 2017, who had earlier filed two applications in said appeal at Exhibit 18D and 19D, by invoking the provisions of Order 14 Rule 5 of CPC and Order 41 Rule 25 of CPC. After order was passed on these applications directing the applications to be listed for final hearing, Writ Petition No.5450 of

2023 was filed before this Court, which came to be decided by order dated 17th December 2024. By this order, considering the fact that the applications were ordered to be decided at the stage of final hearing, this Court refrained from interfering in the said order.

3. In this background, the petitioners/appellants filed a separate application in R.C.A. No.145 of 2017 at Exhibit 72, titled as 'Application In Continuation Of The Applications Exhibit 18D and 19D' and prayed to decide the applications Exhibit 18D and 19D, in accordance with the provisions mentioned in the prayer clause of the application (Exhibit 72). Learned Appellate Court passed the impugned order dated 09.05.2025, on this application (Exhibit 72), by observing that the earlier applications viz. Exhibit 18D and 19D were dismissed by this court and therefore, the application (Exhibit 72) also deserves to be dismissed. Only for this reason, the application (Exhibit 72) is directed to be filed without any adjudication on said application.

4. Learned Advocate for the petitioners submits that the application at Exhibit 18D and 19D are not finally adjudicated and in view of the impugned order, even the application at Exhibit 72 is also not adjudicated. He, therefore, prays that learned Appellate Court be directed to decide all these applications on merits.

5. Mr. R.R. Deo, learned Advocate for respondent No.1 fairly submits that all these applications are not adjudicated on merits and the reasons mentioned by the learned Appellate Court while rejecting the application at Exhibit 72 are based on an impression that this Court has rejected the applications at Exhibit 18D and 19D by order dated 17th December 2024.

6. As such, in view of the above, the impugned order dated 09.05.2025, passed by the learned Appellate Court on application at Exhibit 72 is quashed and set-aside.

7. Having regard to the controversy involved, it is in the interest of justice to direct the learned Appellate Court to consider and decide all the pending applications, particularly applications at Exhibit 18D, 19D and 72, at the stage of final hearing of RCA No.145 of 2017, in accordance with law by affording an opportunity of hearing to concerned parties.

8. The Writ Petition is accordingly disposed of.

(PRAFULLA S. KHUBALKAR, J.)

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