

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

WRIT PETITION NO.5521 OF 2022

(Purushottam s/o Wasudeo Thakre and another Vs. Smt. Renukabai Wasudeo Thakre
(dead) Tarabai Omkar Wagh and others)

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

Court's or Judge's orders.

Mr. Palash K. Mohta, Advocate for LR's of Petitioner No.1.
None for Respondents.

CORAM: R. M. JOSHI, J.

DATE: 9th JULY, 2025.

1. None for the respondents. In spite of service of notice respondents to cause appearance which indicates that they are not interested in opposing the petition.
2. This petition takes exception to order passed below Exh.149 in Regular Civil Suit No.15/2008 whereby the application for adding proposed defendant no.5 and correction of the age of defendant no.4 came to be allowed by ignoring the fact that application Exh.146 for the similar prayer was already rejected by the Court.
3. Learned Counsel for the petitioner submits that the principle of *res judicata* will apply to the orders passed at all stage of the proceedings and in spite of order passed below Exh.146 is brought to the notice of the Court, the application came to be allowed by holding that the age of defendant no.4 was not taken into consideration while

passing earlier order. It is submission that it is not open for the trial court to pass contrary order when the issue about addition of the proposed defendant no.5 and correction of age of defendant no.4 was already decided on merit.

4. Perusal of the order impugned indicates that it was within the knowledge of the learned trial Court that the application Exh.146 for the same prayer was heard and decided on merit. There is embargo for the Court to entertain and decide fresh application for the same relief. The principle of *res judicata* would apply even to the orders passed at different stages during the pendency of the suit. On this count alone impugned order cannot sustain, hence, stands set aside

5. Petition is allowed. Exh.149 filed before learned trial Court stands dismissed.

(R. M. JOSHI, J.)