



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

Writ Petition No. 838 of 2025

[Smt. Seema Qureshi ..vs.. Sajida Begum Wd/o Sheikh Rahim Mistri and ors.]

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

Court's or Judge's orders

Mr. G. G. Gurve, Advocate for the petitioner

CORAM : ANIL L. PANSARE J.

DATED : 24-02-2025

Heard.

2. The challenge is to order dated 21-8-2024 passed below Exhibit 168 in Special Civil Suit No. 802/1999 by 2nd Joint Civil Judge Senior Division, Nagpur thereby permitting legal representatives of defendant no. 21 to participate in the suit.

3. It appears from the impugned order that defendant no. 21, when alive, was served with the suit summons but did not participate and, therefore, the suit proceeded *ex-parte* against him. After his death, his legal representatives were brought on record. Their addresses were not traceable and, therefore, they were served by paper publication. One of the legal representatives of defendant no. 21 appeared and sought permission to defend the suit on the ground that prior thereto, he was not aware of the pendency of the suit. The trial Court permitted him to defend the suit.

4. The argument is that this order has been passed after completion of trial and after hearing the arguments of the parties and after the judgment was reserved.

5. I do not find any merit in the argument in as much as there is no bar to permit the party to defend the suit once the suit is reserved for judgment. Rather, it is in the interest of

parties to have decision on merit by permitting all contesting parties to participate in the suit.

6. It is not the case of the petitioner-original defendant No. I that original defendant no. 21-II, the legal representative of defendant no. 21 was aware of pendency of suit and did not participate. It appears that in March, 2024, the legal representatives of defendant no. 21 were served with the suit summons through paper publication. The legal representative appeared before the Court in August, 2024 and filed application on the ground that he was not aware of the pendency of suit.

7. Thus, it appears that the said legal representative approached the Court at the earliest possible opportunity. That being so, the Court is fully justified in permitting legal representative to participate in the suit. No interference is, therefore, called for in the impugned order. The petition is dismissed *in limini*.

8. Copy of order be served on the trial Court.

(Anil L. Pansare, J.)