



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

WRIT PETITION NO.7176/2019

Shri Ram Dayaram Aaswani .Vs. Kucchi Memon Jamat Trust, Nagpur through its
Mutavali/President Mr. A. A. Majeed

AND

WRIT PETITION NO.6670/2019

Cutchi Memon Jamat Trust, Nagpur through its Mutavali/President Mr. Altaf Ahmed
s/o Abdul Majeed .Vs. Mr. Ram Dayaram Aswani

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

Court's or Judge's orders

Mr. K. B. Ambilwade, Advocate for petitioner in W.PNo.7176/19 and
respondent in W.PNo.6670/2019.

Mr. M. A. Qureshi, Advocate for petitioner respondent in W.P.
No.7176/2019 and petitioner in W.PNo.6670/2019

CORAM : ANIL L. PANSARE, J.

DATE : MAY 8, 2025

WRIT PETITION NO.7176/2019

Mr. K. B. Ambilwade, learned counsel for petitioner, on
instructions, seeks permission to withdraw the petition.

2. Permission is granted.
3. The writ petition is disposed of as withdrawn.

WRIT PETITION NO.6670/2019

Heard.

2. Petitioner – original respondent is aggrieved by order dated 28.06.2019 passed in Regular Civil Appeal No.164/2019, thereby granting stay to the decree passed by Small Causes Court, Nagpur in Regular Civil Suit No.50/2012 with a direction to pay Rs.8500/- per month to the appellant as occupational charges of the suit premises pending appeal. The suit filed by appellant came to be decreed, against which the petitioner filed appeal.
3. Counsel for petitioner submits that the First Appellate Court has granted exorbitant amount as occupational charges.

4. Having heard both sides, it appears that the premises under question is a shop admeasuring 400 Sq.Ft. Counsel for respondent submits that the market value of the property is Rs.50,00,000/- and, therefore, the First Appellate Court should have granted additional amount towards occupational charges. As such, the respondent had also filed petition but has been withdrawn today because of subsequent developments. The counsel submits that the First Appellate Court has heard the appeal and judgment is likely to be passed at any time.

5. That being so, there appears no reason why should the order impugned be tested at such a belated stage.

6. Even otherwise, when inquired, counsel for the petitioner submits that the valuation report was not filed. Thus, it appears that there is no verifiable material to test correctness of the order passed by the First Appellate Court. Nonetheless, considering the fact that the premises is being used for commercial purpose and in absence of any material to show that the First Appellate Court has arrived at perverse finding, I am not inclined to exercise the extraordinary jurisdiction under Article 227 of the Constitution of India. The petition is accordingly dismissed.

(Anil L. Pansare, J.)