



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

WRIT PETITION NO.8504 OF 2019

PETITIONER
(Ori. Plaintiff)

:

Ramsakhi Wd/o. Kishorilal Gupta,

Aged 50 yrs., Occ. Nil, r/o c/o Shri Ganeshprasad Gupta, House of Nathulal Shivhare, Telipura, Sitabuldi, Nagpur, being dead through her legal heir **Smt. Rukhaminibai wd/o Rameshkumar Gupta**, aged 53 years, Occ. Household, r/o 1293, Sethinagar, Near Arvind Kirana Stores, Gupteshwar Road, Giriraj Kishor Mayor Ward, Jabalpur (M. P.) [Dead] through LRs of Petitioner

1A. Priya W/o Chandraprakash Gupta,

Age – 30 Yrs., r/o 864, Badi Omti Chowk, in front of Mazzid Baldeo Bagh, Jabalpur (M.P.), Aadhar Card No.994663689339

1B. Priti d/o Ramesh Gupta,

Age – 28 Yrs., r/o 1293, Near Ajay Electronics, Sethinagar, Near Arvind Kirana Stores, Gupteshwar Road, Giriraj Kishor Mayor Ward, Jabalpur (M. P.), Aadhar Card No.491177200406.

(Amendment carried out as per order order of this Hon'ble Court dated 19.08.2024 on CAW No.1551/2024 & 1552/2021)

..VERSUS..

RESPONDENTS
(Ori. Defendants)

:

- 1 **Shivdulari Wd/o Kedarnath Gupta,**
being dead through her legal heirs/Respondents No.2 to 5.
- 2 **Sadan s/o Kedarnath Gupta,**
Aged 61 yrs., Occ. Business, r/o Opp. Patwardhan Ground, Tekadi Road, Sitabuldi, Nagpur.
- 3 **Satyanarayan s/o Kedarnath Gupta,**
Aged 25 yrs., Occ. Business, being dead through his legal heirs, namely,

3A. Kusumlata Wd/o Satyanarayan Gupta,

Aged 53 Years, Occ. Household,
[Reported to be dead on 04.11.2018
without living any other legal heir than
Kartik Satyanarayan Gupta, the legal
heir at Serial No.3A-1]

3A-1. Kartik s/o Satyanarayan Gupta,
Aged 25 Years, Occ. Business, r/o Opp.
Patwardhan Ground, Tekadi Road,
Sitabuldi, Nagpur.

- 4 **Smt. Jankibai Wd/o. Munnalal Gupta,**
Aged 45 yrs., Occ. Household, Nagpur,
being dead through her sole legal heir,
namely, **Jagdishprasad s/o. Munnalal
Gupta**, Aged 55 Years, Occ. Business,
r/o. House No.496, Tekadi Road,
Sitabuldi, Nagpur

4A. Kartik s/o Jagdishprasad Gupta,
Aged about – adult, Oc. Business, r/o
House No.496, Tekadi Road, Sitabuldi,
Nagpur.

(Amendment carried out as per order of this Hon'ble
Court dated 10.09.2024 on CAW No.2015/2024 &
2017/2024)

- 5 **Madanlal s/o Kedarnath Gupta,**
Aged 35 yrs., Occ. Service, R/o
Lodhipura, Bajeria, Nagpur [Being dead
through his legal heris, namely,

**5a) Smt. Shantidevi Wd/o. Madanlal
Gupta,**

Aged 65 Years, Occ. Household,

5b) Kamlesh S/o Madanlal Gupta,

Aged 40 Years, Occ. Busniess

5c) **Mithilesh s/o Madanlal Gupta,**
Aged 32 Years, Occ. Business

5d) **Babita w/o Rakesh Gupta,**
Aged 42 Years, Occ. Household

5e) Kavita w/o Krushna Reddy,
Aged 33 Years, Occ. Household

All r/o Lodhipura, Bajariya, Nagpur.

Mr S. G. Malode, Advocate for Petitioners.
Ms G. Nandurkar, Adv. h/f Mr S. L. Kotwal, Advocate for Respondent No.4A.

CORAM : SIDDHESHWAR SUNDARRAO THOMBRE
DATE : 25th NOVEMBER, 2025.

ORAL JUDGMENT

. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties at the stage of admission.

3. By way of this petition, the petitioner challenges the order dated 06.08.2019 passed below Exhibits – 1 and 19 in Final Decree No.976 of 1980 by the learned 19th Joint Civil Judge Senior Division, Nagpur, whereby the learned 19th Joint Civil Judge Senior Division, Nagpur, passed an order which reads as under :

ORDER

“1] Compromise Petition Exh.19 is read and recorded as the terms of settlement between the deceased applicant and non applicant.

2] Final decree in the form of compromise decree be drawn as per the terms and conditions mentioned in Exh.19.

3] The final decree proceeding stands disposed of accordingly.”

4. The learned counsel for the petitioner submitted that the said Advocate had appeared only on that particular date and that she had neither appeared for the petitioner before nor after that occasion. Therefore, according to the petitioner, the compromise petition filed before the Court was a fraud played upon both the Courts and the petitioner.

5. It was further submitted that the petitioner had never placed her thumb impression on the said document and particular reference was made to Vakalatnama filed in the case. The learned counsel for the petitioner argued that although, the petitioner's thumb impression appeared on the document, it was not countersigned by her and on that ground, it was contended that Advocate Nafisa Roshan was not engaged by the petitioner.

6. He further submitted that under Order 23 Rule 3 of the Code of Civil Procedure, the Court is required to consider whether all parties to the suit have arrived at a lawful compromise. He argued that the language and tenor of Order 23 make it clear that a compromise must be entered between all the parties. Since all parties had not settled the matter, the compromise filed was a result of fraud upon the petitioner. He emphasized that the petitioner had never signed the said compromise and that her earlier counsel, who represented her throughout the proceedings, did not appear on 01.11.1996, when the compromise was filed. Instead the Advocate who appeared only on that single date filed compromise, even though the petitioner herself had stated before the Court that she had never signed it. Hence, it was contended that the compromise at Exhibit-19 ought not to have been accepted by the learned Trial Court.

7. I have perused the cross-examination of Advocate Nafisa Roshan, Vakalatnama as well as the findings recorded by

the learned Trial Court and also considered the Order 23 Rule 3 of the Code of Civil Procedure.

8. The respondent Nos.2, 3 and 5 had approached this Court by filing Civil Revision Application No.77 of 2003. This Court *vide* its order dated 01.12.2006, remanded the matter to enable the said respondents to examine Advocate Nafisa Roshan as a witness and directed the learned Trial Court to decide the application for compromise at Exhibit-19. Pursuant to the order passed by this Court, Advocate Nafisa Roshan was examined and she deposed that she appeared on behalf of Ramsakhi and in her presence, the matter was settled. Nothing was brought on record by the petitioner in her evidence to suggest that the said Advocate had not appeared on her behalf.

9. The learned Trial Court recorded its findings after considering the evidence of Advocate Nafisa Roshan, who represented the petitioner. The learned Trial Court observed that her testimony was trustworthy and had not been shaken in cross-examination. She identified the signature and the thumb impression of Ramsakhi on the compromise petition at

Exhibit-19. She also stated that an amount of Rs.40,000/- was paid to Ramsakhi in her presence. Therefore, the learned Trial Court held that Ramsakhi had accepted Rs.40,000/- in lieu of her share, and thereafter, the compromise petition was drafted and presented before the Court.

10. While deciding the application, the learned Trial Court observed that the compromise petition at Exhibit-19 contained a deed recording the terms of settlement between the deceased applicant and the non-applicant. As the compromise was recorded as per the agreed terms of settlement between the parties, and considering the evidence of Advocate Nafisa Roshan, who represented the petitioner on that date, the learned Trial Court found no material to suggest that any fraud had been played by Advocate Nafisa Roshan on 01.01.1996.

11. In view of the above findings, I find no reason to interfere with the order dated 06.08.2019 passed below Exhibits- 1 and 19 in Final Decree No.976 of 1980 by the learned 19th Joint Civil Judge Senior Division, Nagpur. Hence, I proceed to pass the following order :

ORDER

i) Writ Petition No.8504 of 2019 is **dismissed**. No order as to costs.

12. Rule is discharged accordingly.

(SIDDHESHWAR S. THOMBRE, J.)

TAMBE.