



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

WRIT PETITION NO.4520 OF 2024

Smt. Tarabai Wd/o. Kisan Hadke and Another
Vs.
Ajabrao Natthuji Dhoke 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. Sandeep Marathe, Advocate for the Petitioners.
Mr. A.P. Bhuihar, Sdvocate for the Respondent No.1.

CORAM: SIDDHESHWAR S. THOMBRE, J.

DATED : 13th OCTOBER, 2025

1. Heard Mr. Sandeep Marathe, learned counsel for the petitioner and Mr. A.P. Bhuihar, learned counsel for respondent No.1.
2. The petitioner is challenging the order below Exh.30 dated 07.07.2024 passed in MJC No.249/2018 by the learned 12th Joint Civil Judge Senior Division, Nagpur, whereby, the application filed by the petitioner for recalling of the order below Exh.26 dated 18.01.2024 came to be rejected.
3. Learned counsel for the petitioner submits that, an order below Exh.8 dated 10.10.2019 was passed by the learned Trial Court to collect the evidence. He submits that pursuant to this order, the Commissioner have already submitted a report dated 09.02.2022 and therefore, there was no necessity to again raise this issue afresh.

4. Per contra, learned counsel for the respondent, invited my attention to the order passed by the learned trial Court dated 10.10.2019, whereby the learned trial Court directed the City Survey Officer to submit a report. Learned counsel for respondent further submitted that the order dated 10.10.2019 is not being challenged and only an issuance of fresh summons to the Commissioner is being challenged. Subsequently, an application filed for seeking recalling of order dated 18.01.2024 is also being challenged and prayed to dismiss the writ petition.

5. I have gone through the order passed below Exh.8 by the learned Trial Court as well as the order passed below Exh.26. The order dated 10.10.2019 is not yet implemented and therefore, fresh summons was issued to the Court Commissioner to submit a report. Subsequently, an application was filed seeking recalling of order dated 18.01.2024.

6. After going through the papers, I find that order dated 10.10.2019 is not challenged and only subsequent issuance of fresh summons is being challenged. In view of all these facts and circumstances and considering the record, I am not inclined to interfere with the present writ petition under Article 227 of the Constitution of India. Accordingly, the writ petition is dismissed. No order as to costs.

(SIDDHESHWAR S. THOMBRE J.)

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