



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

WRIT PETITION NO.5050 OF 2024

Motilal Darshanlal Jaiswal

Vs.

Rekha Rameshlal Jaiswal and Others

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. S.M. Vaishnav, Advocate for the Petitioner.
Mr. C.A. Babrekar, Advocate for the Respondents.

CORAM: SIDDHESHWAR S. THOMBRE, J.

DATED : 14th OCTOBER, 2025

1. Heard Mr. S.M. Vaishnav, learned counsel for the petitioner and Mr. C.A. Babrekar, learned counsel for the respondents.
2. The petitioner is challenging the order dated 19.08.2024 passed below Exh.71 and order dated 06.07.2024 passed below Exh.68 in Special Civil Suit No.359/2021 by the 10th Joint Civil Judge Senior Division, Amravati, whereby, vide order dated 06.07.2024 passed below Exh.68, the learned Trial Court appointed Mr. G.B. Paliwal, Advocate as Court Commissioner for recording evidence of Bhikusingh Ramchandra Gaur, witness of defendant No.1.
3. Learned counsel for the petitioner submits that there was no any record placed before the authority and only on the submissions of the learned counsel for the respondent, the said application at Exh.68 came to be allowed.

4. Without going to the contrary statements made by both the counsels and in view of the fact that no any medical report is placed before the authority, I am of the view that, both the orders dated 19.08.2024 passed below Exh.71 and order dated 06.07.2024 passed below Exh.68 in Special Civil Suit No.359/2021 by the 10th Joint Civil Judge Senior Division, Amravati are liable to be set-aside.

5. In view thereof, the writ petition is **partly allowed**. Order dated 19.08.2024 passed below Exh.71 and order dated 06.07.2024 passed below Exh.68 in Special Civil Suit No.359/2021 by the 10th Joint Civil Judge Senior Division, Amravati are hereby to be quashed and set-aside. The matter is remanded back to the learned trial Court. Application for appointment of Court Commissioner for examining witness Shri Bhikusingh Ramchandra Gaur (Exh.68) is restored. Learned trial Court is directed to hear both the parties afresh and decide the application within a period of **six weeks**. Both the parties are permitted to submit their record in support of their respective claims. No order as to costs.

(SIDDHESHWAR S. THOMBRE J.)

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