



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

WRIT PETITION NO. 5706 OF 2024

1. Champalal Bansilal Parate (Dead) Through LR's
- 1-a. Jitendra Champalal Parate (Dead) Through LR's
- 1-a-I. Seema Jitendra Parate, Age-50, Occ. Household.
- 1-a-II. Sumit Jitendra Parate, Age-29, Occ. Advocate.
- 1-a-III. Sakshi Jitendra Parate, Age-22, Occ. Student.
- All R/o New Shukrawari, Near Ram Coolers, Mahal, Nagpur.
- 1-c. Mangala Kamlesh Baghele, Aged about 54 years,
Occ: Teacher, R/o Dr.Khankhoje Nagar, Manewada
Road, Nagpur – 440024.
2. Nitin Suresh Parate, Aged-Major, Occ. Business.
3. Amit Suresh Parate, Aged-Major, Occ. Business.
- Nos.2 & 3 R/o Plot No.1, Shiv Shakti Apartment, Opp.
Gulmohar Hall, Khamla Road, Nagpur.

PETITIONERS

VERSUS

1. Vijaykumar Bhaiyyalal Parate, Aged-Major, Occ:
Business, R/o Parate Farms, Sahakar Nagar, Nagpur.
2. Shriprakash Bhaiyyalal Parate, Aged-Major, Occ.
Business, R/o Pande Layout, Nagpur.
3. Gaurabai Arjunlal Banode (Dead) Through LR's
- 3a. Rajesh Arjunlal Banode, Aged-Major, R/o Gajanan
Chawk, Sangam Talkies Road, Nagpur.
- 3b. Mahesh Arjunlal Banode (Dead) Through LR's
- 3b(i) Anjubai Mahesh Banode, Aged-Major, Occ. Housewife.
- 3b(ii) Tejas Mahesh Banode, Aged-Major, Occ. Business.
- Both R/o Kirshna Arjun Building, Hero Showroom, New
Subedar Layout, Nagpur.
- 3c. Reenabai Sudesh Shahu, Aged-Major, Occ. Housewife,
R/o Gajanan Chawk, Sangam Talkies Road, Nagpur.
4. Bittanbai Dayaram Jais (Dead) Through LR's
- 4a. Subhas Dayaram Jais, Aged-Major, Occ. Business.
- 4b. Lakshminarayan Dayaram Jais, Aged-Major, Occ.Business.
- Both R/o Old Shukrawari, Sakkardara Road, Nagpur.
- 4c. Sheelabai Ashokkumar Shahu, Aged-Major, Occ. Housewife,
R/o Beside, Chandra Bhaga Oil Mill, Labantanda Chawk,
Sangam Talkies Road, Nagpur.
- 4d. Shardabai Mahesh Banode, Aged-Major, Occ. Business,
R/o Near Murlidhar Mandir, Old Shukrawari, Nagpur.
- 4e. Manjubai Digambar Shahu, Aged-Major, Occ. Housewife,
R/o Old Shukrawari, Sakkardara Road, Nagpur.
5. Chandraprakash Shyamlal Jais, Aged-Major,
Occ. Business, R/o Killa Road, Mahal, Nagpur.

6. Pramod Shyamlal Jais, Aged-Major, Occ. Business,
R/o Killa Road, Mahal, Nagpur.
7. Golabai Jugalkishor Shahu, Aged-Major, Occ. Household,
R/o Chhota Tajbagh Square, Raghuji Nagar, Nagpur-440009.
8. Vishnugopal Ganeshlal Jais, Aged-Major, Occ. Business,
R/o Choudhari Chawl, Opp. Hanuman Mandir, Old
Shukrawari, Nagpur – 440009.
9. Durgalal Ganeshlal Jais, Aged-Major, Occ. Business,
R/o Ward No.3, Ranala, Tah. Kamptee, Dist. Nagpur-441002.
10. Rajkumar Ganeshlal Jais, Aged-Major, Occ. Business,
R/o 254, Near 8th Mile, Amravati Road, Nagpur-440023.
11. Shakuntala Radhakishan Shahu (Dead) Through LR's
- 11a. Archana Kamal Chaudhari, Aged-Major, Occ. Housewife,
R/o Ward No.1, Chincholi, Wardha, Maharashtra-442106.
- 11b. Rajendra Radhakishan Shahu, Aged-Major, Occ. Housewife,
Ro Gumgaon, Taluka Arvi, Gumgaon, Wardha, MH-442106.
12. Premchand (Not Known) Jais (Dead) Through LR's
- 12a. Sailbala Premchand Jais, Aged-Major, Occ. Household.
- 12b. Sarojbala Premchand Jais, Aged-Major, Occ. Household.
- Both R/o Malviya Road, Baidyanath Ayurvedic Shop, Raipur,
Chhatisgarh.
13. Munnibai Ramsharan Baiswara (Dead) Through LR's
- 13a. Rajan Ramsharan Baiswara, Aged-Major, Occ. Business,
R/o Sharda Coal Depot, Parvati Nagar Road, Opposite
Thaware High School, New Babulkeda, Nagpur.
- 13b. Sharda Rajendra Shahu, Aged-Major, Occ. Retired,
R/o Joshi Wadi, Kukde Layout, Nagpur.
- 13c. Ranibai Lashminarayan Shahu, Aged-Major,
Occ. Not known, R/o Near Shukla Lodge, Telipura, Nagpur.
- 13d. Mayabai Ramsharan Baiswara, Aged-Major, Occ. Housewife,
R/o Sharda Coal Depot, Parvati Nagar Road, Opposite
Thaware High School, New Babulkeda, Nagpur.
- 13e. Pawanbai Naresh Chaudhari, Aged-Major, Occ. Housewife,
R/o Sharda Coal Depot, Parvati Nagar Road, Opposite
Thaware High School, New Babulkeda, Nagpur.
- 13f. Arti Anil Shahu, Aged-Major, R/o Opposite Nanumal
Building, Bajeria.
- 13g. Pratima Ramsharan Baiswara, Aged-Major, Occ. Housewife,
R/o Sharda Coal Depot, Parvati Nagar Road, Opposite
Thaware High School, New Babulkeda, Nagpur.
14. Anusuyabai Lakhanlalji Banode (Dead) Through LR's

- 14a. Bharti Dinesh Sahu, Aged-Major, Occ. Housewife,
R/o Bharatsingh Chowk, Ward No.7, Pulgaon,
District Wardha-442302.
- 14b. Rekha Pravin Shahu, Aged-Major, Occ. Housewife,
R/o Plot No.529, Behind Power House, Deshpande
Layout, Bagadganj, Nagpur – 440006.
- 14c. Mamta Santosh Jaiswal, Aged-Major, Occ. Housewife,
R/o Plot No.393, Ajamshah Layout, Hanuman Nagar,
Nagpur – 440 009.
- 14d. Shailendra Lakhanlal Banode, Aged-Major, Occ. Business,
Bhutiya Darwaja Road, New Shukrawari, Nagpur-440032.
15. Parimal @ Madanlal Babulal Parate, Aged-Major,
Occ. Legal Practitioner.
16. Hardaykumar Babulal Parate, Aged-Major, Occ. Business.
17. Vinodkumar Babulal Parate, Aged-Major, Occ. Business.
- Both R/o Parate Compound, Giripeth, Nagpur.
18. Prashant Vasantrao Vaidya, Aged-Major, Occ. Legal
Practitioner, R/o Prashanshri Plot No.11, Old Verma
Layout, Nagpur.
Office at – Flat No.1, Indraprastha Layout, Infront of
Gulmohar Hall, Khamla Road, Nagpur.

RESPONDENTS

Shri Tabish Mirza with Shri A.M. Quazi, counsel for the petitioners.
Ms Ketaki Jaltare-Vaidya, counsel for the respondent nos.1, 2 and 18.
Shri S.H. Kashyap, counsel for the respondent nos.13a to 13g.
Shri A.A. Pande, counsel for the respondent nos.14a to 14d.
Shri H.A. Khan, counsel for the respondent nos.15 to 17.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : DECEMBER 15, 2025

DATE ON WHICH JUDGMENT IS PRONOUNCED : DECEMBER 23, 2025

JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioners have raised challenge to the order dated 10.09.2024 passed by the trial Court rejecting the application for directions to the counsel for the opponent to withdraw his vakalatnama from the proceedings.

3. The controversy in the instant petition arises from the proceedings of a miscellaneous judicial case in Special Civil Suit no.81 of 1964 seeking relief of modifying the preliminary decree passed in the said suit. The petitioners who are the non-applicants in the said proceedings have alleged that the counsel appearing for the applicant has conflict of interest since he had earlier appeared on behalf of Champalal Parate and therefore he should withdraw himself from the proceedings. The non-applicants 1a to 1c, 4 and 6 in the said proceedings therefore filed application for directing the counsel to withdraw from the case. This application came to be rejected vide order dated 10.09.2024 and the petitioners have challenged the same by way of instant petition.

4. The primary contention canvassed on behalf of the petitioners is, the counsel who has appeared on behalf of the applicants in the miscellaneous judicial case had earlier worked as an advocate on behalf of the father of the non-applicant nos.1a and 1c, by name Champalal Bansilal Parate. It is submitted that the petitioners had also filed a complaint under Section 35 of the Advocates Act, 1961 alleging misconduct on the part of the said advocate and during pendency of the said complaint, the said advocate be directed to withdraw himself from the proceedings.

5. As against this, the learned counsel for the respondent nos.1, 2 and 18 submitted that the application filed by the petitioners was not maintainable being without support of any specific provision of law. She submitted that there exist no material to demonstrate any conflict of interest of the advocate with the non-applicants of the case. She also

submitted that the complaint filed against the advocate alleging action under Section 35 of the Advocates Act, 1961 is dismissed by the Member, Bar Council of Maharashtra and Goa by order dated 19.04.2025 in which it is categorically held that there is no conflict of interest. She therefore submitted that the very basis of the application is wiped away and therefore the instant petition deserves to be dismissed.

6. While considering the controversy involved in the suit, it has to be seen that the application filed by the petitioners-non applicants before the trial Court for directing the counsel for the applicant to withdraw from the proceedings is without reference to any specific provision of law. The very basis of the application is the alleged conflict of interest and resultantly alleged misconduct under Section 35 of the Advocates Act, 1961. As regards the allegation made in the application about the work done by the concerned lawyer on behalf of Champalal Parate, a reply dated 06.09.2024 was filed by the lawyer before the trial Court denying specifically the allegations that the lawyer had defended Champalal Parate by contesting any case on his behalf and in the reply it is specifically mentioned that the case was handled by a lawyer by name Shri P.N. Kothari. As such, there is no material to conclude about conflict of interest. As regards the notice dated 28.09.2014 placed on record before the trial Court sent by the concerned lawyer, it only shows that the case papers were sent back by the lawyer. As such, there is no material to conclude that there existed any conflict of interest preventing the lawyer from conducting the case on behalf of his client.

7. Apart from this, it has to be noted that on the basis of very allegations about alleged misconduct under Section 35 of the Advocates Act, 1961, the complaint filed by Jitendra Champalal Parate before the Bar Council of Maharashtra and Goa vide P.E. No.364 of 2024 is dismissed by order dated 19.04.2025 in which it is categorically observed that the lawyer has performed his duty towards his client and therefore the complaint was found to be without any substance. As such, in absence of any provision of law for restraining the concerned lawyer from conducting the case, the application filed by the non-applicants before the trial Court deserved to be rejected.

8. A perusal of the impugned order shows that the trial Court has given due consideration to the relevant aspects. Having regard to the fact that the very basis of the application about alleged misconduct is found to be without any substance by the Bar Council of Maharashtra and Goa, there is no reason to interfere with the order passed by the trial Court.

9. In view of the above mentioned factual and legal aspects, no indulgence under Article 227 of the Constitution of India is warranted with the impugned order. The writ petition deserves to be dismissed and the same is dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)

APTE

At this stage, learned counsel for the petitioners requests for stay to this judgment for a period of two weeks to enable the petitioners to approach the Hon'ble Supreme Court of India.

The request is opposed by the learned counsel for the respondents. Having regard to the fact that this Court has held that the application filed by the petitioners seeking directions to the counsel for the appellant to withdraw the vakalatnama from the proceedings is held to be not maintainable and the petition is dismissed, I do not find any reason for staying the judgment. Further, there was no interim relief operating in the petition. Hence, the request is rejected.

(PRAFULLA S. KHUBALKAR, J.)

APTE