



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
WRIT PETITION NO.1267 OF 2025

Vidarbha Youth Welfare Society Amravati and Others
Vs.

Subhash Rambhau Deshmukh 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. R.D. Bhuibhar, Advocate for the Petitioners.

Mr. S.G. Jagtap, Advocate for the Respondent Nos.1 to 4.

CORAM: PRAFULLA S. KHUBALKAR, J.

DATED : 16th DECEMBER, 2025

1. Heard learned counsel for the petitioners and learned counsel for the respondents.

2. By this petition, the petitioners have challenged the order dated 21.02.2025 passed by the Appellate Court thereby, rejecting the application under Order 41 Rule 27 of the Code of Civil Procedure, 1908 (for short "the Code").

3. The petitioner is appellant in Regular Civil Appeal No.228/2023 in which the judgment and decree passed in Regular Civil Suit No.301/2018, is under challenge.

4. During the pendency of the appeal, the appellant filed an application under Order 41 Rule 27 of the Code, for permission to lead additional evidence, which was rejected by the Appellate Court by an order dated 21.02.2025, which is subjected to challenge by way of instant petition.

5. The primary contention canvassed by the learned counsel for the petitioner is that the application under Order 41 Rule 27 of the Code is decided by the Appellate Court even before the Regular Civil Appeal No.228/2023 is taken up for final hearing. He submits that in view of the law laid down by the Hon'ble Supreme Court in the matter of *Union of India*

Vs. Ibrahim Uddin and Another reported in (2012) 8 Supreme Court Cases 148, the application under Order 41 Rule 27 of the Code, ought to have been taken up for hearing only at the stage of final hearing of the appeal and the impugned order needs to be quashed only on this count alone.

6. Learned counsel for the respondents does not dispute the position of law laid down in the aforesaid judgment of the Hon'ble Apex Court.

7. Having regard to this, the impugned order dated 21.02.2025 passed by the Appellate Court is hereby quashed and set-aside only on this count. The matter is remitted back to the Appellate Court with a direction to decide the application at Exh.24 under Order 41 Rule 27 of the Code, at the stage of final hearing of the appeal.

8. It is made clear that the impugned order is set-aside only on this count and the issues raised by the parties on merits of the application are not dealt with. All issues are kept open.

9. Considering the fact that the Regular Civil Appeal No.228/2023 is being contested on merits and the paper book is also filed, it is directed that the Regular Civil Appeal No.228/2023 be decided by the Appellate Court preferably within a period of three months from today.

10. In view of the above, the present writ petition is **disposed of** with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)