



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

Writ Petition No.3933/2025
Nitin v Vaishali and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. Sonali Saware-Gadhawe, Advocate for petitioner.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : 28-07-2025.

Heard Mrs. Sonali Saware-Gadhawe, learned
Advocate for the petitioner.

2. Leave to amend the prayer clause is granted.
Amendment be carried out forthwith.

3. The petitioner has challenged the order passed by the
trial Court rejecting the application for restoration of the suit.
Learned Counsel for the petitioner submits that the trial Court
has failed to consider the purport of provisions of Order XVII
Rule 3 of the Code of Civil Procedure and although the plaintiff
was personally present before the trial Court, the suit was
dismissed for want of prosecution. She submits that the
application for restoration is also rejected without considering the
reasons submitted by the petitioner about his inability to contest
the proceedings of the civil suit on account of his ill health. She

submits that as a result of dismissal of the suit for want of trial, the suit could not be decided on merits and the petitioner/plaintiff is thus deprived of exercising his right.

4. Learned Counsel for the petitioner submits that the petitioner is in possession of the suit property and apprehends that only because the suit is dismissed the defendants will take steps to dispossess the plaintiff and therefore prays for interim relief.

5. In view of this, issue notice of the petition to the respondents as well as on interim relief, returnable after two weeks.

(Prafulla S. Khubalkar, J.)