IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 APPEAL FROM ORDER NO. 70 OF 2026
WITH
CIVIL APPLICATION NO. 12483 OF 2026

Sumanbai Ratan Kharat
VERSUS
Savitribai Kisan Bankar and others
...
Advocate for the Petitioner : Mr. Shrikrishna N. Zakade
.....

CORAM : **SANJAY A. DESHMUKH, J.**
DATED : **23rd OCTOBER, 2026**

PER COURT :-

1. This appeal is preferred against the judgment and order passed by the learned District Judge, Gangapur in Regular Civil Appeal Nos. 53 of 2025 and 65 of 2025 dated 11.09.2026, which were filed for setting aside the judgment and decree passed by the trial court in Regular Civil Suit No.54 of 2014, dated 01.10.2022.

2. The appeals were allowed and the matters were remanded to the trial court for re-trial, as the trial court erred in following the requisite provisions for withdrawal of Vakalatnama.

3. Learned advocate for the appellant submitted that the impugned judgment and order is not legal and correct. After so may years, it is held that the respondents - original defendants 3 to 5 did

not contest the proceeding in the trial court but for that this appellant-plaintiff is not responsible. It is prayed to issue notice to the respondents.

4. Perused the impugned judgment, particularly para 19 and 20, which read as under:-

> *"19. Therefore, considering the observations made by Hon'ble High Court of Bombay in the cases as supra, as well as the provisions of Para no.660 (4) of the Civil Manual, it appears that when any advocate wants to withdraw his Vakalatnama, then he must have serve written notice of his intention to do so to his client at least seven (7) days in advance and thereafter leave of the court to withdraw appearance may also be applied. The advocate shall file a note in writing requesting the court for permission to withdraw appearance and also note of client instructing him to do so and also the written acknowledgment of it. Then if the court is satisfied that no inconvenience is likely to be caused to the court or clients, then the court may permit advocate to withdraw his appearance.*
>
> *20. Now turning to the case in our hand, it appears that though the learned counsel for defendant no.3 to 5 has filed no instruction pursis but despite specific order of learned Trial Court he has not filed acknowledgment of sending notice or intimation of his withdrawal of Vakalatnama to defendant no. 3 to 5. Not only that but the learned Trial Court has also not passed any specific order permitting withdrawal of Vakalatnama to said advocate. Therefore, it is sufficient to*

show that the mandatory procedure of Para No. 660(4) of Civil Manual is not followed by learned Trial Court. It appears that inspite of it, the learned Trial Court proceeded with the suit and consequently the defendant no.3 to 5 remained unrepresented to defend the suit."

5. It is held by the appellate court that while withdrawing the appearance/Vaklatnama, the advocate has to intimate that he is going to withdraw the Vaklatnama and then on producing a copy thereof, the court can discharge him. However, the facts show that withdrawal of the Vakalatnama on behalf of the respondent Nos. 3 to 5 was allowed without following the procedure, as held above.

6. Considering this aspect, the learned appellate court has rightly remanded the matter to the trial court for giving opportunity to original defendant Nos. 3 to 5 to defend the suit. There is no substance in the grounds of objection raised in the appeal. The appeal therefore, dismissed in limine.

7. However, it is clarified that the trial court is directed to conclude the trial as early as possible and in any case within a year from today. The trial court shall fix the hearing of the matter at least once in a week and if the advocates or the parties are not co-operating for final decision of the suit, it my impose heavy costs on the concerned party.

8. Learned advocate for the appellant is directed to submit a copy of this order in the proceeding of Regular Civil Suit No. 54 of 2014 pending before the learned Joint Civil Judge, Junior Division, Gangapur, District Chhatrapati Sambhajinagar.

9. In view of disposal of the appeal from order, pending civil application does not survive and the same is also disposed of.

(SANJAY A. DESHMUKH, J.)

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