

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 16236 OF 2025

Manoj Chandan

..Petitioner

Versus

HDFC Bank Ltd and Anr

...Respondents

Mr. Devendra Tiwari i/b Law Chamber of Siddharth Murarka,
for the Petitioner.

Mr. Sandesh Shukla a/w Mr. Bhushan Bhadgale i/b Abhay
Nevagi & Associates, for the Respondent No. 1.

CORAM : N. J. JAMADAR, J.

DATE : 7th APRIL 2026

P.C.:

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 06th December, 2024 passed by the learned Judge, City Civil Court in Notice of Motion No. 2312/2021, whereby the Notice of Motion taken out by the Respondent No. 1 Bank to set aside the *ex parte* judgment and decree dated 30th January, 2018, in Summary Suit No. 1569/2014 against the Respondent No. 1 - Bank, came to be allowed and the said *ex parte* decree dated 30th January, 2018 was set aside, and the summary suit stood restored to the file and an unconditional leave to defend the suit came be granted to the Respondent No. 1.

3. The learned Counsel for the petitioner submitted that, the learned Judge, City Civil Court committed an error in allowing the Notice of Motion as the petitioner/plaintiff had raised the issues regarding the legality and validity of the power of attorney on the basis of which the Notice of Motion was taken out, and the inconsistency in the case of the Defendant No. 1 as regards the service of writ of summons.

4. So far as the submissions in regard to the legality and validity of the power of attorney, the legal position is well settled that, the defect in representation of a corporate entity is curable. If the power of attorney is not found to be granted in favour of the person who instituted the proceeding, the corporate entity can ratify the action of its officer or even substitute another person as its representative. Such ratification can be express or implied.

5. A useful reference in this context can be made to the decision of the Supreme Court in the case of *United Bank of India Vs. Naresh Kumar & ors*¹.

6. On the substance of the matter, the learned Judge has recorded that, the writ of summons was served on the Lower Parel office of the defendant No. 1, though the transaction was

1 1996 SCC OnLine SC 92

with the Grant Road Branch of Defendant No. 1. What accentuates the situation is the fact that, before instituting the suit, the plaintiff had filed a complaint before the Consumer Forum and the said complaint was dismissed, opining that, the plaintiff was not a “consumer”. In the said complaint, the Defendant No. 1 - Bank was impleaded with its address at Grant Road Branch, and the Defendant No. 1 had appeared in the said complaint.

7. In this view of the matter, the view taken by the learned Judge, City Civil Court, that the summons did not appear to have been duly served on the Defendant No. 1 Bank, cannot be faulted at.

8. Thus, in exercise of its supervisory jurisdiction, this Court does not find such jurisdictional error, patent illegality, or material irregularity which vitiates the impugned order so as to warrant interference, with an order which otherwise promotes the objective of determination of the lis, on merits.

9. The Writ Petition thus stands dismissed.

[N. J. JAMADAR, J.]