



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

WRIT PETITION NO.972 OF 2024

Mahindra Singh s/o Rampal Singh through POA Mayur S/o Lakhpat Singh Jadeja
Vs.

Akhand Ashram, A Private Trust, through its Managing Trustee and others

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

Court's or Judge's orders.

Shri M.R. Joharapurkar, Advocate for petitioner.
S/Shri Pramod Bapat and Vijay Sheth, Advocates for resp. nos.1,3 to 6,
Shri N.R. Rode, AGP / APP for respondent/State.

CORAM : M.W. CHANDWANI, J.

DATE : 16.02.2026.

1. The petition challenges the order dated 22.09.2023 passed by the learned Civil Judge Senior Division, Gondia (for short, "Trial Court") below Exhibit 47 in Regular Civil Suit No.40/2018 thereby condoning the delay caused in filing the review application by respondent – Trust against order dated 14.12.2021 passed on Exhibit-1 in the said matter wherein the petitioner was directed to be added as a party defendant.

2. The whole contention of learned counsel for the petitioner is that the order dated 14.12.2021 was challenged by respondent – Trust in the Writ Petition No.591/2022 before this Court and the same was withdrawn unconditionally by respondent – Trust. Therefore, once the petition has been withdrawn, it is to be treated as dismissed and it will foreclose all rights of the petitioner in that petition to adjudicate the same issue before any other forum also. Therefore, according to him, the application for condonation of delay filed by respondent-Trust ought not to have been

entertained by the Trial Court since respondent-Trust has withdrawn the earlier writ petition filed against the said order.

3. As against this, it has been submitted on behalf of learned counsel for respondent-Trust that just because the writ petition has been withdrawn, it does not foreclose the right which is available to agitate the issue before other forum. According to learned counsel for respondent-Trust, when another Mahant filed an application for intervention to be joined as party defendant in the suit, they came to know that the petitioner has played fraud by claiming that he is the successor of the deceased Mahant of respondent-Trust – Chitrakut Akhand Ashram, Pili Kothi, Gondia. Having got to know this fact, the original order of adding the petitioner as party defendant is sought to be reviewed and since, there was delay in filing the review application, the condonation of delay application has been filed by respondent – Trust.

4. At the outset, it is to be mentioned here that the impugned order challenged is of condoning the delay and not on the review application itself. Therefore, it is only to be seen whether the learned Trial Court has exercised the jurisdiction properly or not *vis-a-vis* condonation of the delay.

5. Perusal of the application for condonation of delay reveals that only after filing of the application by another Mahant for impleading himself as a necessary party as being successor of the deceased Mahant, the review of the order of

addition of the petitioner as party was sought. Thus, the very purpose for filing review application is that, in application for addition of party defendant by another Mahant; respondent-Trust came to know that there is some other sort of arrangement. Therefore, the review of order was not sought earlier. The learned Trial Court was justified in condoning the delay. No perversity is shown by learned counsel for the petitioner in the order of the learned Trial Court while condoning the delay.

6. So far as anxiety of learned counsel for the petitioner that writ petition foreclosed the right of respondent-Trust for filing the review application is concerned, the Trial Court has not observed anything since review application is yet to be decided. It appears that while passing the impugned order, the learned Trial Court has made reference of the withdrawal of earlier writ petition. But I did not find any observation of the learned Trial Court holding that inspite of withdrawal of writ petition, the review application is maintainable. The Trial Court has not applied its mind whether review application is maintainable or not. The Trial Court shall decide the same while deciding the review application without being influenced by the order of this Court.

7. With above said observations, the writ petition is disposed of.

(M.W. Chandwani, J.)

Wagh