



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

WRIT PETITION NO. 1710 OF 2024

VIJAY S/o MANIKRAO KHANDAGALE

VERSUS

SMT. VEENA W/o CHANDRABHAN SABRE AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's Orders or directions and
Registrar's order

Court's or Judge's Order

Mr. A. S. Dhage, Advocate for the petitioner
Mr. P. K. Mishra, Advocate for respondent nos.1 and 2
Mr. P. P. Kothari, Advocate for respondent nos.6 to 8

CORAM : M. W. CHANDWANI, J.

DATE : JANUARY 16, 2026.

1. Heard.
2. The petition challenges the order dated 03.11.2022 passed by the learned 14th Joint Civil Judge, Senior Division, Nagpur on application (Exh.80) in Special Civil Suit No. 117/2013 whereby, the following additional issue was framed :

“6. Do the plaintiffs prove that family arrangement deed dated 03.03.2002 is false, bogus and not binding on them ?

3. Having heard learned counsels appearing for the parties and having gone through the record as well as the impugned order, it appears that the suit of the plaintiffs (hereinafter referred as “respondent nos.1 and 2”) was *inter alia* for partition of the suit property amongst the petitioner and respondent nos.3 to 8. The respondent nos.1 and 2 have stated in the plaint that the Family Arrangement Deed was a forged and fabricated document.

However, no issue was framed by the trial Court in this regard and the matter went upto the stage of arguments. In the meanwhile, certain applications came to be filed by respondent nos.1 and 2 but the same were rejected and those orders were confirmed by this Court. However, at the fag end of the case before the trial Court, an application for framing of additional issues came to be filed by respondent nos.1 and 2 which was allowed by the trial Court by the impugned order dated 03.11.2022 and accordingly, the aforesaid additional issue has been framed. The said order is under challenge in this petition.

4. After considering the pleadings as well as the nature of the suit, I do not find any perversity in the impugned order allowing the application for framing additional issues since, the pleadings were already present in the plaint to that effect.

5. So far as the delay in filing the application is concerned, a duty is cast on the Courts to frame the issues after considering the variance of the material preposition of the facts in the pleadings of the parties. Therefore, if the pleadings are already there in the plaint, the Court ought to have framed this issue and if the said mistake is corrected at a later stage, no prejudice will be caused to the defendants.

6. As regards the submission of learned counsel for respondent nos.6 to 8 that the document of family arrangement deed has been admitted by respondent nos.1 and 2 is concerned; in my view, all these aspects can be

considered by the trial Court while deciding the suit on merits.

7. It appears that pursuant to the additional issue, the respondent nos.1 and 2 again entered into the witness box and led further evidence on the same and the matter was kept for their cross-examination. However, due to pendency of the writ petition, the petitioner did not proceed to cross-examine the witness of respondent nos.1 and 2. Therefore, the trial Court closed the additional evidence of respondent nos.1 and 2 without cross-examination by the petitioner. However, the petitioner can be allowed to the extent of permitting cross-examination of respondent nos.1 and 2's witness in respect of the additional evidence tendered on their behalf. Since, the petitioner has already closed the evidence of his side, there is no reason to cause further delay for examining any other witness.

8. In view of the above, I do not find that any interference is required in the impugned order in writ jurisdiction. The writ petition deserves to be dismissed and accordingly, it is dismissed.

(M.W.Chandwani, J.)

Diwale