



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

WRIT PETITION NO.2859 OF 2024

Sahebrao s/o Shankarao Gawande and others

Vs.

Smt. Jaya Wd/o Sudhir Gawande 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 V.G. Bhamburkar, Advocate for petitioners.
Shri G.R. Sadar, Advocate for respondent no.3.

CORAM : M.W. CHANDWANI, J.

DATE : 16.02.2026.

1. The petition challenges the order dated 08.01.2024 passed below Exhibit 92 by the 12th Joint Civil Judge Senior Division, Amravati, in Special Civil Suit No.32/2019 wherein the application to recall witness – Shri Govind Janardan Jog (PW2) on the application of respondent (original plaintiff) to show receipt of consideration amount paid was allowed and order dated 26.02.2024 passed below Exhibit 96 by the 12th Joint Civil Judge Senior Division, Amravati, in Special Civil Suit No.32/2019 whereby the application filed for review of the above order dated 08.01.2024 passed below Exhibit 92 was rejected.

2. It is pertinent to mention that in the decision of ***Bagai Construction Vs. Gupta Building Material Store***¹, the Supreme Court has held that the application under Order XVIII Rule 17 can be filed even by the parties. It is not the

case that only Court can *suo motu* recall any witness. The trial Court has exercised jurisdiction to recall the witness, after considering the facts and circumstances of the case. No perversity is found in the impugned orders of the trial court for exercising the jurisdiction since Order XVIII Rule 17 of the Code of Civil Procedure, 1908 empowers the Court to call any witness to put any question to the witness. No doubt, impugned order is passed on the application of the respondent, but the trial Court after considering the matter before it, allowed the said application for putting the questions to witness. Therefore, the submission of learned counsel for the petitioners that the case cannot be recalled to fill-up the lacuna does not hold water.

3. Needless to mention, the recall is only made for that limited purpose as mentioned in the impugned order that too for putting question by the trial Court.

4. Therefore, the petition does not stand on any ground and is hence dismissed.

(M.W. Chandwani, J.)

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