



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

WRIT PETITION NO. 4036 OF 2024
Kalawati @ Kalabai W/o. Ramrao Nagare and others
Vs.
Asarabai W/o. Waman Mundhe and others

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

Court's or Judge's Order

Ms. A. A. Pande, Advocate for petitioners.
Shri N. R. Ghuge, Advocate for respondent nos. 1, 2, 4, 8 & 9.

CORAM :- M. W. CHANDWANI, J.

DATED :- 21.01.2026

Heard.

2. The order dated 03.07.2023 below Exh.49 and 50 and the order dated 07.10.2023 below Exh. 68 passed by the Civil Judge Junior Division, Lonar, District Buldhana in Regular Civil Suit No. 6/2018 are under challenge in the petition.

3. The petition challenges the order discarding the evidence of the petitioners filed before the Trial Court on the ground that they were not present for the examination-in-chief and cross-examination. The application for recalling the order of discarding the evidence came to be rejected by observing that they did not remained present to face cross-examination despite being given directions dated 16.08.2023 and 26.09.2023. This order is also under challenged in this petition.

4. The contention of learned counsel for the petitioners is that the settlement talk was going on between the parties, therefore the petitioners could not remain present before the Trial Court. Further, when the application came to be filed by the petitioners for setting aside the order of discarding/striking the evidence, it was also rejected by the Trial Court.

5. Considering the grounds raised in the petition as well as the principle of law that as far as possible a matter shall be heard on merit and on considering the submissions of learned counsel for the petitioners that, the petitioners will appear before the Trial Court as and when directed for examination-in-chief and cross-examination, the impugned orders can be set aside by imposing some costs on the petitioners for being negligent. Hence, I proceed to pass the following order:-

- i) The petition is allowed.
- ii) The order dated 03.07.2023 below Exh.49 and 50 and the order dated 07.10.2023 below Exh. 68 passed by the Civil Judge Junior Division, Lonar, District Buldhana in Regular Civil Suit No. 6/2018 are quashed and set aside subject to payment of costs of Rs.2000/- (Rs. Two Thousand) to the respondents before the Trial Court.
- iii) The petitioners shall make themselves available for the evidence as and when directed by the Trail Court.

(M. W. CHANDWANI, J.)