



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

WRIT PETITION NO. 547 OF 2026

Veena Vishwanath Maske, Aged 63 yrs, Occ: Housewife
R/o Ward no.13, Jagdamba Layout, Tah. Karanja,
Dist. Wardha. Through Power of Attorney Holder
Vishwanath Pandurang Maske, R/o Ward no.13,
Jagdamba Layout, Tah. Karanja, Dist. Wardha.

PETITIONER

VERSUS

1. Taritkumar Umapada Sarkar, Aged 57 years,
Occ: Business, R/o Flat no.301, Aditya Heritage
Apartment, Nelson Chowk, Nagpur-13,
Tahsil and District Nagpur.

2. State of Maharashtra, Through Collector, Wardha.

RESPONDENTS

Ms Apurva D. Kolhe, counsel for the petitioner.
Shri P.V. Bawankule, counsel for the respondent no.1.
Smt.K.H. Bhondge, Assistant Government Pleader for the respondent no.2.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : APRIL 28, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. The petitioner has taken exception to the order dated 18.08.2025 passed by the Court of District Judge, Wardha which has rejected the petitioner's application under Order XLIV read with Order XXXIII Rule 1 of the Code of Civil Procedure, 1908 (for short, 'the Code') for permission to contest the appeal as an indigent person and exemption from payment of Court fees.

3. The petitioner is the original defendant in Special Civil Suit no.13 of 2019 which was filed by the respondent seeking specific performance of

contract and mandatory injunction. The suit was decreed by the judgment and decree dated 29.03.2022 and the petitioner filed an appeal under Section 96 of the Code challenging the said judgment and decree. At that stage, the petitioner filed an application bearing M.J.C. no.74 of 2022 under Order XLIV read with Order XXXIII Rule 1 of the Code seeking permission to prosecute the appeal as an indigent person. The application was opposed by the respondent and by the judgment and order dated 18.08.2025 the Court of District Judge-4, Wardha has rejected the application.

4. Ms Apurva Kolhe, learned counsel for the petitioner submitted that the petitioner has demonstrated her inability to pay the requisite Court fees and in view of the fact that the petitioner is a senior citizen with no independent income, the application ought to have been allowed. She submitted that the petitioner had contested the suit as an indigent person and therefore the application ought to have been allowed.

5. While opposing the petition, Shri P.V. Bawankule, learned counsel for the respondent no.1 and Smt.K.H. Bhondge, learned Assistant Government Pleader for the respondent no.2 submitted that the petitioner is having sound financial condition which is reflected from her bank transactions of more than Rupees One Lakh on multiple occasions. The District Judge-4, Wardha has considered this aspect and has even recorded that the petitioner has not produced her updated Bank account statement on record and further by considering the immovable properties standing in her name, it is inferred that the petitioner cannot claim herself to be an indigent person.

6. A perusal of the reasons recorded by District Judge-4, Wardha reveals that due consideration is given to all the relevant aspects including the Bank transactions as reflected in the bank account statement of the petitioner and the immovable properties owned by her. By considering the relevant factors and by giving due consideration to the contentions of both the parties, the M.J.C. filed by the petitioner is rejected by the Court.

7. On perusal of the reasons recorded in the impugned order, I do not find any perversity or illegality in the approach adopted by the District Judge, warranting interference under Article 227 of the Constitution of India. Hence, the writ petition is dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)