



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

WRIT PETITION NO.3556 OF 2025

MADHUKAR WAMAN CHAUDHARI

VERSUS

BHANUDAS PANDURANG CHAWARE (DEAD) THR. HIS LRS.

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Mr. A.V. Bhide, Thr. V.C., Advocate for Petitioner.
Mr. A.M. Tirukh, Advocate for Respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 25th MARCH 2026

PER COURT :-

1. Heard learned Advocate for the petitioner as well as learned Advocate for the respondents.

2. The petitioner's challenge is to the order dated 22.03.2025, passed by the Lok Adalat by Panel Judge, Panel No.1, Dhamangaon Railway, in R.C.S. No.49 of 2019, thereby permitting the plaintiffs (respondents herein) to withdraw the suit with liberty to file fresh suit.

3. Mr. A.V. Bhide, learned Advocate for the petitioner submits that the suit filed by the respondents was for permanent

injunction, which was contested by the petitioner-defendant. In the said suit, the plaintiffs had filed a *pursis* dated 24.09.2024, for permission to withdraw the suit with liberty to file fresh suit. The said permission was opposed by the defendant by his reply dated 13.11.2024. The suit was, thereafter, listed before the Lok Adalat on 22.03.2025, on which date, Lok Adalat passed the impugned order allowing the plaintiffs therein to withdraw the suit with liberty to file fresh suit even when the defendant was not present before the Lok Adalat. He, therefore, submits that the impugned order passed by the Lok Adalat is without jurisdiction since the Lok Adalat is not empowered to grant liberty to file fresh suit. In support of his submissions, he relies on provisions of Section 89 of the Code of Civil Procedure, 1908 and Section 20 of the Legal Services Authorities Act, 1987. Apart from this, it is submitted that no notice of listing of the matter before Lok Adalat was served upon the petitioner-defendant and therefore, the impugned order is unsustainable.

4. As regards the contention about the impugned order, passed by the Lok Adalat, being without jurisdiction, learned Advocate for the respondents does not dispute the legal position. He however, submits that the plaintiffs are entitled to withdraw their suit and seek liberty to file fresh suit before the competent court.

5. Having regard to the issue about order of the Lok Adalat, allowing the plaintiffs to file fresh suit, it appears that there is no power with the Lok Adalat to grant any liberty to the plaintiffs to file fresh suit. Further in view of the contention that the defendant was not served with any notice of Lok Adalat about listing of the matter before Lok Adalat and further since neither his signature appears in the matter before Lok Adalat, the impugned order is unsustainable in law.

6. However, the request made by the plaintiffs vide *pursis* dated 24.09.2024, for permission to withdraw the suit with liberty to file fresh suit needs to be considered and decided by the trial court independently by remitting the matter to the trial court. In view of this, following order is passed.

ORDER

- I) The writ petition is allowed.
- II) The order dated 22.03.2025, passed by the Lok Adalat by Panel Judge, Panel No.1, Dhamangaon Railway, in R.C.S. No.49 of 2019, is quashed and set-aside.
- III) The matter is remanded to the trial court to consider the *pursis* dated 24.09.2024, afresh after giving opportunity of hearing to the parties concerned.

- IV) Parties are directed to appear before the trial court on 06th April 2026.
- V) The writ petition is, accordingly, disposed of.

(PRAFULLA S. KHUBALKAR, J.)

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