



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

CIVIL APPLICATION (CAW) NO. 2725 OF 2025

IN

WRIT PETITION NO. 4442 OF 2025

Gopal Zapparuzi Ambadkar

Vs.

Haribhau Tukaram Umbarkar and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. L.H. Kothari, Advocate for petitioner.

Mr. P.P. Kotwal, Advocate for respondent No.1.

Mr. P.S. Verma, Advocate for respondent Nos.4 to 6.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 11.03.2026

Learned counsel for the petitioner submits that since all the respondents have appeared through respective lawyers, this application for permission to serve the respondents by paper publication is not pressed.

2. In view of this, the civil application is disposed of.

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Heard learned counsel for the petitioner.

2. Petitioner's challenge is to order dated 01.04.2025 passed by the trial Court rejecting the application for recasting of issues.

3. The petitioner is defendant No.2 in the suit filed by the respondent No.1 seeking declaration, permanent injunction and cancellation of sale deed.

4. In the suit, the defendant No.2 appeared and filed his written statement on 16.06.2010. Thereafter, the trial Court framed the issues on 08.11.2012. After the evidence of plaintiffs was over and at the stage of evidence of the defendants, the defendant No.2 filed an application on 15.01.2025 at Exh.60 seeking recasting of issues to add two issues as mentioned in the said application. This application was opposed by the plaintiffs and it came to be rejected by order dated 01.04.2025, which is subjected to challenge by way of instant petition.

5. Learned counsel for petitioner submits that the defendant No.2 has made a reference about an agreement to sell dated 14.01.1991 under the style 'Essar Patra' in the specific pleadings of the written statement and therefore, the issues about said agreement and payment of consideration of Rs.6,20,000/- needs to be framed by recasting the issues.

6. Learned counsel for respondents opposed the petition and submitted that there are no pleadings in the written statement about any payment of Rs.6,20,000/- as alleged by the defendant No.2 and the issues already framed on 08.11.2022 are based on the pleadings of the

parties. It is submitted that the issues sought to be framed did not arise out of the controversy.

7. It has to be seen that the learned trial Court has already framed issues based on the pleadings of the parties. The evidence of the plaintiffs is also over and the application for recasting of issues filed after about 14 years after the issues were framed that too without support of any pleadings cannot be entertained. It has to be noted that there are no pleadings at all in the written statement about any payment of consideration amount of Rs.6,20,000/- by defendant No.2 and as such, having regard to the controversy involved in the suit, there is no need to frame the additional issues by recasting the earlier issues.

8. Perusal of the impugned order reveals that the trial Court has given due consideration to the relevant aspects and passed a well reasoned order warranting no interference under Article 227 of the Constitution of India. Writ Petition is accordingly, dismissed. No order as to costs.

9. Considering the fact that the suit is of the year 2010 and the parties are of advanced age, the learned trial Court is directed to expeditiously decide the civil suit preferably within a period of six months.

(Prafulla S. Khubalkar, J.)