



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

WRIT PETITION NO. 5878 OF 2025

1. Biharilal Dhannaram Trust A Private Trust, Through its Managing Trustee Laxminarayan Manoharlal Vishwakarma, Aged Major, R/o Dhannaram Building, Opposite Shri Poddareshwar Ram Mandir, Mayo Hospital Road, Nagpur – 440018.
2. Laxminarayan Manoharlal Vishwakarma, Managing Trustee of Biharilal Dhannaram Trust, Aged Major, R/o Dhannaram Building, Opposite Shri Poddareshwar Ram Mandir, Mayo Hospital Road, Nagpur – 440018.
3. Balkrishna Maniklal Vishwakarma, Trustee of Biharilal Dhannaram Trust, Aged about Major, R/o 10C, Margaret Avenue, Buccleuch, Sandton 2090, South Africa, herein represented by his Power of Attorney holder Laxminarayan Manoharlal Vishwakarma.

PETITIONERS

VERSUS

1. M/s Hindustan Petroleum Corporation Limited, 17, Jamshedji Tata Road, Mumbai – 400020, Through its General Manager.
2. The Senior Regional Manager (Retail), M/s Hindustan Petroleum Corporation Limited, 2nd Floor, Oriental Building, Sardar Vallabhbhai Patel Marg, Nagpur-440001.
3. State Bank of India, Regional Office, Kingsway, Nagpur 440001. Through its AGM, RB-1.
4. M/s Kartarsingh Lamba and Sons, Through Mohinderpal Singh Kartarsingh Lamba, Aged 63 years, Occ-Business, C/o H.P Petrol Pumb, Kadbi Chowk, Kamptee Road, Nagpur – 440014.

RESPONDENTS

Shri G.B. Sawal, counsel for the petitioners.
Shri V.V. Bhangde, counsel for the respondent no.2.
Shri K.N. Lad, counsel for the respondent no.3.
Shri Amit Khare, counsel for the respondent no.4.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : MARCH 05, 2026

ORAL JUDGMENT

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

2. By this petition, the petitioners have challenged the order passed by the trial Court allowing the application to exhibit the document of Power of Attorney.

3. The petitioners are the original plaintiffs, who had filed Regular Civil Suit No.308 of 2015 for possession, damages, compensation and mesne profits against the respondents. The original defendants have filed their written statement and the evidence of defendants is also over. After cross-examination of the defendants' witness, the defendant nos.1 and 2 filed an application at Exhibit 153 on 30.08.2025 for permission to file document of Power of Attorney on record. This application was opposed by the plaintiffs, however by order dated 08.09.2025 the application came to be allowed and the defendant nos.1 and 2 were permitted to file document of Power of Attorney on record. Thereafter the defendants filed a separate application dated 16.09.2025 at Exhibit 158 for exhibiting the said document of Power of Attorney, which was also opposed by the plaintiffs and by order dated 24.09.2025, it came to be allowed. The plaintiffs have challenged this order by way of instant petition.

4. Shri G.B. Sawal, learned counsel for the petitioner vehemently submitted that the document of Power of Attorney is exhibited even without examining any witness to prove the said document. He also submitted that the document is exhibited after the evidence of defendants was closed and since the document of Power of Attorney is an attempt to nullify the effect of cross-examination, the application deserved to be

rejected. He also submitted that the document of Power of Attorney being filed after the evidence was over, the plaintiffs are deprived from an opportunity to cross-examine the witness on the said document and the impugned order being passed by ignoring this crucial aspect, is unsustainable.

5. Shri V.V. Bhangde, learned counsel for the respondent no.2-original defendant vehemently opposed the petition and submitted that the impugned order permitting to exhibit the document of Power of Attorney is passed in consequence of the earlier order passed on the application at Exhibit 153. He therefore submitted that the impugned order is a consequential order and since the plaintiffs have not challenged the order allowing the production of documents, the instant petition challenging only the consequential order is not maintainable. He also submitted that the original defendant nos.1 and 2 are being sued through the Senior Regional Manager of the company are entitled to place on record the document of Power of Attorney to show the authority of the officials to contest the case and lead evidence on its behalf. By placing reliance on the judgment of the Hon'ble Supreme Court in *Edukanti Kistamma (Dead) Through LRS. & Others Versus S.Venkatareddy (Dead) Through LRS. & Others* [(2010) 1 SCC 756], he submitted that in absence of challenge to the main order, the instant petition challenging only the consequential order is not maintainable. By placing reliance on the judgment of the Hon'ble Supreme Court in *United Bank of India Versus Naresh Kumar & Others*

[(1996) 6 SCC 660], he submitted that the defendant nos.1 and 2 being the companies having juristic entities are entitled to be represented by the persons who are holding the post of Managers/Senior Regional Managers and mere non-filing of the document of Authority/Power of Attorney is a curable defect. He therefore submitted that allowing the defendants to file on record the document of Power of Attorney and the order to exhibit the said document is not an illegality, much less any jurisdictional error, warranting indulgence under Article 227 of the Constitution of India.

6. Shri Amit Khare, learned counsel for the respondent no.4 also supported the impugned order and by inviting attention to Section 85 of the Indian Evidence Act, 1872, submitted that the document of Power of Attorney shall be presumed to be a duly exhibited and authenticated document.

7. Rival contentions thus fall for my consideration.

8. It has to be noted that the defendant nos.1 and 2 – M/s Hindustan Petroleum Limited are arrayed and represented through General Manager and Senior Regional Manager (Retail) respectively. During cross-examination of the defendants' witness, the plaintiffs had put several questions about authority of the person who had signed the written statement and the person who has led the evidence on behalf of the defendants. In this background, the defendants have filed on record the document of Power of Attorney to show that the person viz. Ashish Verma,

had the authority to lead the evidence on behalf of the defendants. It has to be noted that the application filed by the defendants to place on record the document of Power of Attorney is allowed and the order is not challenged by the plaintiffs. It has to be noted that the document of Power of Attorney is filed alongwith application dated 30.08.2025 when the evidence of defendant nos.1 and 2 was not closed and considering these crucial aspects, the trial Court has allowed the document to be exhibited.

9. The position of law as clarified by the Hon'ble Supreme Court in paragraphs 9, 10 and 11 of the judgment in ***Naresh Kumar & Others*** (supra) needs to be taken note of, which are reproduced below:-

“9. In cases like the present where suits are instituted or defended on behalf of a public corporation, public interest should not be permitted to be defeated on a mere technicality. Procedural defects which do not go to the root of the matter should not be permitted to defeat a just cause. There is sufficient power in the Courts, under the Code of Civil Procedure, to ensure that injustice is not done to any party who has a just case. As far as possible a substantive right should not be allowed to be defeated on account of a procedural irregularity which is curable.

10. It cannot be disputed that a company like the appellant can sue and be sued in its own name. Under Order 6 Rule 14 of the Code of Civil Procedure a pleading is required to be signed by the party and its pleader, if any. As a company is a juristic entity it is obvious that some person has to sign the pleadings on behalf of the company. Order 29 Rule 1 of the Code of Civil Procedure, therefore, provides that in a suit by against a corporation the Secretary or any Director or

other Principal officer of the corporation who is able to depose to the facts of the case might sign and verify on behalf of the company. Reading Order 6 Rule 14 together with Order 29 Rule 1 of the Code of Civil Procedure it would appear that even in the absence of any formal letter of authority or power of attorney having been executed a person referred to in Rule 1 of Order 29 can, by virtue of the office which he holds, sign and verify the pleadings on behalf of the corporation. In addition thereto and de hors Order 29 Rule 1 of the Code of Civil Procedure, as a company is a juristic entity, it can duly authorise any person to sign the plaint or the written statement on its behalf and this would be regarded as sufficient compliance with the provisions of Order 6 Rule 14 of the Code of Civil Procedure. A person may be expressly authorised to sign the pleadings on behalf of the company, for example by the Board of Directors passing a resolution to that effect or by a power of attorney being executed in favour of any individual. In absence thereof and in cases where pleadings have been signed by one of its officers a Corporation can ratify the said action of its officer in signing the pleadings. Such ratification can be express or implied. The Court can, on the basis of the evidence on record, and after taking all the circumstances of the case, specially with regard to the conduct of the trial, come to the conclusion that the corporation had ratified the act of signing of the pleading by its officer.

11. *The courts below could have held that Sh. L.K. Rohatgi must have been empowered to sign the plaint on behalf of the appellant. In the alternative it would have been legitimate to hold that the manner in which the suit was conducted showed that the appellant bank must have ratified the action of Sh. L.K. Rohatgi in signing the plaint. If, for any reason whatsoever, the courts below were still unable to come to this conclusion, then either of the appellate courts ought to have exercised their jurisdiction under Order 41 Rule 27 (1) (b) of the Code of Civil Procedure and should have directed a proper power of attorney to be produced or*

they could have ordered Sh. L.K. Rohatgi or any other competent person to be examined as a witness in order to prove ratification or the authority of Sh. L.K. Rohatgi to sign the plaint. Such a power should be exercised by a court in order to ensure that injustice is not done by rejection of a genuine claim.

10. In view of above exposition of law, it has to be noted that the non-filing of the document of Power of Attorney by the defendants at the relevant time can be considered to be a procedural infirmity on their part. The defendants being juristic entities are entitled to point out the authority of persons to contest the suit at various stages. The procedural defect in not filing the document of Power of Attorney would in my opinion not go to the root of the matter and it should not be permitted to defeat the right of the defendants to establish the authority of the defendants to contest the suit. It is a technical flaw on the part of the defendant which is curable and hence the order allowing the application to exhibit the document of Power of Attorney cannot be considered to be a patently illegal.

11. It has to be noted that the document of Power of Attorney is filed after the evidence of the defendants is over and the plaintiffs had no opportunity to conduct the cross-examination on the said document. Hence, it is clarified that the plaintiffs are entitled to cross-examine the defendants' witness only on the point of document of the Power of Attorney, which is filed on record.

12. Having given anxious consideration to the entire factual and legal aspects, I do not find any perversity with the impugned order warranting interference under Article 227 of the Constitution of India. The writ petition is accordingly dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)

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