



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

WRIT PETITION NO.6825 OF 2025

Mangalmurti S/o. Govindrao Shaniware and Anr.

Vs.

Ku. Pournima D/o. Raman Shaniware and Ors.

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. B.R. Deshmukh a/w. Mr. K.S. Totade, Advocate for the Petitioner.

CORAM: PRAFULLA S. KHUBALKAR, J.

DATED : 09th JANUARY, 2026

1. Heard learned counsel for the petitioners.
2. Petitioners' challenge is to the order dated 26.06.2025 passed by the Trial Court allowing Miscellaneous Judicial Case No.47/2018 by which the Regular Civil Suit No.612/2015 is restored subject to costs.
3. Learned counsel for the petitioner submits that the civil suit filed by the respondent was dismissed for failure to supply documents and thus, non-compliance with Orders passed by the Trial Court. He submits that the reasons mentioned for the non-compliance about hospitalization of the lawyer cannot be accepted since, there was another lawyer and clerk who were also supposed to do the compliance in time. Although, he does not deny that the lawyer was hospitalized for a period of one and half months, however, he submits that necessary steps ought to have been taken by another lawyer and clerk who were supposed to do the compliance in time. He also submits that the concerned clerk was not examined and the order of restoration of the suit ought not to have been passed.

4. On perusal of the impugned order, it become clear that the Regular Civil Suit No.612/2015 was dismissed for failure to supply the documents in time. While passing the impugned order, the Court has categorically observed that the plaintiff's counsel was hospitalized for substantial period and therefore, documents were not supplied within time. The Court has also observed that for the purpose of ensuring the fair trial on merits, the suit needs to be restored.

5. Pertinent to note that the respondents/original plaintiffs have led evidence in support of the application for restoration, whereas, the non-applicants have not led evidence.

6. Having regard to the reasons mentioned in the application for restoration of the suit, I do not find any perversity with the impugned order. The suit is ordered to be restored so that it is decided on merits. Hence, no indulgence is warranted under Article 227 of the Constitution of India and with the impugned order and accordingly, the writ petition is **dismissed** with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

Privel