



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
WRIT PETITION NO.8274 OF 2025

Gupta Construction Company Vs. State of Maharashtra and Others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. A.S. Chandekar, Advocate for the Petitioner.

Mr. S.C. Joshi, AGP for the Respondent Nos.1 to 3/State.

CORAM: PRAFULLA S. KHUBALKAR, J.

DATED : 11th FEBRUARY, 2026

1. Heard learned counsel for the petitioner.
2. Petitioner's challenge is to the Order dated 15.11.2025 passed by the Trial Court thereby, rejecting the application filed by the petitioner/plaintiff under Section 80(2) of the Code of Civil Procedure (for short "CPC"), for granting leave to file suit against the Government, without serving the statutory notice under Section 80 of the CPC.
3. Learned counsel for the petitioner submits that the petitioner/plaintiff has demonstrated urgency in the application by pointing out that the suit filed by the petitioner was in respect of the e-tendering process. Despite this, the Trial Court has rejected the application by unnecessarily focusing on the aspect that the suit is with respect to the infrastructure projects of the Government and hence, no *prima-facie* case is made out for grant of leave. He further submits that the petitioner/plaintiff has in-fact pointed out the urgency and became entitled to grant of leave to file the suit without serving the notice.
4. Perusal of the impugned order indicates that the Trial Court has considered the contents of the suit on merits and has inferred that on perusal of the documents there appears no illegality in the e-tendering process.

5. Having regard to the controversy involved in the instant petition, it has to be noted that the application filed by the petitioner/plaintiff under Section 80(2) of CPC was required to be independently considered, by considering the urgency pointed out suit being with respect to the e-tendering process. By the impugned order, the suit filed along with the plaint is returned to the plaintiff for proper presentation again.

6. Perusal of the impugned order reveals that the Court has given importance only to the fact about the suit being with respect to the infrastructure projects of Government, which does not appear to be crucial for deciding the application under Section 80(2) of the CPC. Therefore, the matter deserves to be remanded to the Trial Court for fresh consideration of the application under Section 80(2) of the CPC. The petitioner is granted liberty to file necessary affidavit, if any, to demonstrate the urgency.

7. In view of above, the Order dated 15.11.2025 passed by the Court of Civil Judge Senior Division, Gadchiroli is quashed and set-aside. The matter is remanded to the Trial Court to decide the application under Section 80(2) of the CPC afresh. Accordingly, the writ petition is **disposed of** with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

Privel