

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

WRIT PETITION NO.806 OF 2026

SHRI. AVISHKAR S/O SUHAS MISAL
VERSUS
 SHRI. SUSHIL S/O VISHWANATH MISAL 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. PL. Sagdeo, Advocate for Petitioner.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 29th JANUARY 2026

1. Heard learned Advocate for the petitioner.

2. The petitioner's challenge is to the judgment and order dated 21.03.2026, passed by District Judge-3, Nagpur, by which Misc. Civil Appeal No.02 of 2026 is partly allowed and the ex-parte order dated 10.11.2022, passed by the executing court, is set aside.

3. By placing reliance upon judgment of the Hon'ble Court in the case of *Damodaran Pillai and Others Vs. South Indian Bank Ltd., [(2005) 7 SCC 300]*, learned Advocate for the petitioner submits that the impugned order is passed by ignoring law laid down by the Hon'ble Supreme Court with respect to the applicability of Limitation Act to provisions of Order 21 of the Code of Civil Procedure.

4. In view of this, issue notice to the respondents, returnable after four weeks.

5. The petitioner is permitted to serve the respondents by private mode, in addition to regular mode of service, including service on the learned Advocate appearing on behalf of the respondent/s before the trial court and file affidavit of service in that regard by next date.

(PRAFULLA S. KHUBALKAR, J.)

asd