

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

WRIT PETITION NO.4661 OF 2015

Sumitra w/o Raju Kamble and anr.

-vs-

Pandurang Dhondbaji Kamble

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

Court's or Judge's Orders.

Shri S. D. Malke, Advocate for petitioners.

CORAM : A.S.CHANDURKAR, J.

DATE : JUNE 21, 2016

The respondent has been served with the notice for final disposal of the writ petition. None appeared on behalf of the respondent on 07/06/2016 and hence the matter was kept today for further consideration. Today also there is no appearance on behalf of the respondent.

The petitioners who are the original defendants are aggrieved by the order passed below Exhibit-39 by which the trial Court rejected the application for framing additional issue. The trial Court while doing so has observed that the parties had gone to the trial and had also led evidence on the proposed issues as if they had already been framed. It is further observed that though such additional issues were not framed, the Court would decide the point as if such issues have been framed. The proceedings have now being kept for final argument.

Considering the observations made by the trial Court in last paragraph of the order passed below Exhibit-39 and by clarifying that the trial Court can consider the aforesaid

aspects on the basis of the evidence on record, there is no reason to interfere with the impugned order. Moreover, the question whether the suit as filed seeking negative declaration was maintainable or not is a pure question of law which can be considered by the trial Court. With these observations, the writ petition is disposed of with no order as to costs.

JUDGE