

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

WRIT PETITION NO.5505 OF 2015

Rupchand Gulabsa Jain & Ors.

-vs-

Ashok Shivlall Hurkat and Ors.

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

Court's or Judge's Orders.

Shri V. K. Paliwal, Advocate for petitioner.
Shri S. M. Karkare, Advocate for respondent No.1.
Shri Kadukar, AGP for respondent Nos.6, 8 and 9.

CORAM : A.S.CHANDURKAR, J.

DATE : JULY 18, 2016

Heard.

The challenge in the present writ petition is to an interlocutory order passed by the trial Court below Exhibit-57 refusing to frame a preliminary issue with regard to jurisdiction.

It is submitted by Shri V. K. Paliwal, the learned counsel for the petitioner-original defendant Nos.2 to 4 that the suit of the present nature seeking to challenge the order dated 20/03/1968 sanctioning the layout was not maintainable in the civil Court. According to the learned counsel in case of breach of any conditions of the order of conversion, it was stipulated in the said order that the land would be restored to its original condition. Without challenging this order before the revenue Authority and without seeking compliance of condition (4) of the said order, the present suit had been filed.

Shri S. M. Karkare, the learned counsel for the

respondent No.1 supported the impugned order. According to him in absence of any specific bar to filing of such suit, the trial Court was justified in refusing to frame any preliminary issue.

Shri Kadukar, the learned Assistant Government Pleader appears on behalf of respondent Nos.6, 8 and 9.

I have heard the respective counsel. I do not find that any case has been made out to interfere in writ jurisdiction. The trial Court on finding that the suit in question was not shown to be prima facie barred, did not find it necessary to frame any preliminary issue with regard to jurisdiction. In absence of any such provision being pointed out, a preliminary issue on the aspect of jurisdiction does not deserve to be framed.

In view of this, there is no case made out to interfere in writ jurisdiction. The writ petition stands dismissed with no order as to costs.

JUDGE

-: C E R T I F I C A T E :-

“ I certify that this Judgment/order uploaded is a true and correct copy of the original signed Judgment/order.”

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