

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

Writ Petition No.5470 of 2016

(Smt. Asha wd/o Radheshyam Borsare and others v. State of Maharashtra,
through its Secretary, Law and Judiciary Department, Mantralaya, Mumbai,
and another)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri H.N. Bhondge, Advocate for Petitioners.

Ms Hemlata Jaipurkar, Assistant Government Pleader for
Respondent No.1.

Coram : R.K. Deshpande, J.

Date : 21st December, 2016

On 10-10-2016, this Court passed an order as under :

*“ Issue notice for final disposal of the matter,
returnable on 05.12.2016.*

*The respondent No.1 to state as to how the provisions
of Articles 10 and 12-A of Schedule-I of the Bombay Court
Fees Act, 1959, shall be attracted.*

*In the meantime, there shall be stay to the operation
of Clause (ii) of the impugned order.”*

Prayer clauses (i) and (ii) in the petition are reproduced
below :

“i) May call record of M.J.C. No.4/2016 between Smt. Asha Wd/o. Radheshyam Borsare and 4 others ..Vrs.. Nil and further be pleased to quash and set-aside the impugned order (Annexure-2) below Exh.1 in MJC No.4/16 dated 27.7.2016 passed by Civil Judge, Junior Division, at Kuhi Dist – Nagpur by writ of mandamus, order or direction or any other appropriate writ.”

“ii) Grant ad-interim stay/stay to the further proceeding of M.J.C. No.4/2016 between Smt. Asha Wd/o. Radheshyam Borsare and 4 others ..Vrs.. Nil and further be pleased to quash and set-aside the impugned order (Annexure-2) below Exh.1 in M.J.C. No.4/16 dated 27.7.2016 passed by Civil Judge, Junior Division, at Kuhi, Dist-Nagpur till the disposal of said Writ Petition.”

In prayer clause (ii), a further relief is claimed to quash and set aside the impugned order passed below Exhibit 1 in M.J.C. No.4 of 2016 dated 27-7-2016 passed by the Civil Judge, Junior Division at Kuhi, District Nagpur till the disposal of the writ petition. As a result, the operation of the interim order passed by this Court would set aside the main order challenged in this petition without deciding the controversy involved in the matter. This is the mischief played by the petitioners.

Hence, the petition is dismissed with the costs of Rs.5,000/- to be paid by the petitioners to the High Court Bar Association.

All questions raised are left open to be agitated in Regular Civil Appeal, if the decision of the Trial Court goes against the petitioners.

Judge.

Lanjewar