

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

WRIT PETITION NO.6229/2014

Smt. Anusayabai Shantaram Chourasia
..Versus..
Amarnath Bachhairam Gupta and others

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 13.1.2016

Heard Shri A.C. Dharmadhikari, advocate for the petitioner and Shri J.C. Shukla, advocate for the respondent no.1. None appears for respondents 2 to 4.

The petitioner - defendant no.4 filed the application (Exh. No.109) under Order 14 Rule 2 of the Code of Civil Procedure praying that issue no.15A and 15B be decided as preliminary issues. According to the petitioner, these issues are regarding the challenge raised on behalf of the petitioner to the maintainability of the civil suit in view of the contention that the suit property is situated in slum area and the civil suit is not

maintainable in view of the provisions of Section 22 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act. The learned trial Judge has rejected the application observing that the issue nos.15A and 15B are required to be decided along with the other issues and further that the application is filed after the evidence has started.

On query, the learned advocate for the petitioner has submitted that the issues were framed sometime in 2008.

Considering the facts of the case specially that I do not find any patent irregularity or illegality in the impugned order which necessitates the interference by this Court in the extra-ordinary writ jurisdiction, I see no reason to interfere with the impugned order. The petition is dismissed. In the circumstances, the parties to bear their own costs.

As the civil suit is of 2002, the trial Court is directed to dispose the civil suit by 6th May, 2016.

JUDGE

Tambaskar.