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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12388 OF 2016

Punam d/o Babasaheb Chate,
Age: 25 years, Occu: Doctor,
R/o Bankatswami Nagar, Kanal Road,
Taluka and District Beed & anr. ..PETITIONERS

VERSUS

Minakshi Babasaheb Chate,
Age: 40 years, Occu: Household,
R/o Bankatswami Nagar, Kanal Road,
Taluka and District Beed & ors. ..RESPONDENTS

Mr S. R. Shirsat, Advocate for petitioners
Mr S. N. Patil, Advocate for respondent No.1;
Mr B. S. Kudale, Advocate for respondent Nos. 2 to
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CORAM : NITIN W. SAMBRE, J.

DATE : 3rd NOVEMBER, 2017

ORAL ORDER :

The petitioners-defendants canvassed two issues before this Court. In Regular Civil Suit No.74 of 2016 for declaration of title and injunction, they filed application at Exhibit-30/D praying that preliminary issue be framed as regards limitation. Same was answered against the present petitioners-defendants.

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2. Learned Counsel for the petitioners has tried to establish through the pleadings that the said issue should have been framed and answered, as it goes to the root of the matter.

2. He has also raised the issue of non-joinder of necessary parties, in which, he has given liberty to raise the said issue at the time of final hearing of the suit. As such, the said issue has not gone into with liberty to raise the said issue at the time of final hearing of the suit.

3. So far as the issue of limitation is concerned, based on the cause of action narrated in the plaint, particularly in paragraph-13, trial Court noticed that the claim of the plaintiffs is based on the cause of action as occurred on 16th July, 2016.

4. In the said background, this Court hardly notices any illegality or material irregularity to

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infer that the preliminary issue should have been framed qua limitation. No interference is warranted in extraordinary writ jurisdiction. The petition, as such, fails and stands dismissed, with liberty as observed herein above.

(NITIN W. SAMBRE, J.)

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