

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

WRIT PETITION No.1552/2016

Jennifer wd/o Rajan P. Rocque and another

..Vs..

Mrs. Indira w/o Manish Bhargava and another

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.

DATED : 23.1.2017.

Heard Shri V.V. Bhangde, Advocate for the petitioners.

The petitioners have challenged the order passed by the trial Court allowing the application (Exh. No.15) filed by the plaintiff under Order 1 Rule 10 of the Code of Civil Procedure and permitting the plaintiff to implead the defendant in the civil suit. The submission on behalf of the petitioners is that the trial Court committed an error in not considering that the plaintiff got knowledge about the fact that the suit property is sold to the petitioners, when she received notice on 28th October, 2010 by which it was informed that the defendant has sold the suit property to the petitioners on 21st October, 2010.

In the impugned order, the trial Court has recorded that according to the plaintiff the notice issued by the defendant and received by the plaintiff on 28th October, 2010 did not disclose the name of the purchaser

and the plaintiff made necessary enquiries in the matter and got knowledge about the fact that the petitioners have purchased the suit property when pursis was filed on 23rd July, 2012 and then the plaintiff immediately filed application (Exh. No.15).

I find that the learned trial Judge has adverted to all the relevant aspects and has not committed any illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction.

The learned Advocate for the petitioners states that the claim against the petitioners is barred by limitation. Though the learned trial Judge has made some observations in paragraph No.4 of the impugned order on the point of limitation, in my view, these observations have been made prima facie, only for the purposes of considering the application (Exh. No.15). It is observed that the issue of limitation shall be decided by the trial Court at appropriate stage after affording the parties an opportunity to prove their case. With the above observations, the petition is **disposed**. No costs.

JUDGE