

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

WRIT PETITION NO. 6172 OF 2016

(SMT. SANGEETA PRAKASH GAJBHIYE & ANR....VS.. SMT. JAIMALA ASHOK THAORE)

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

Court's or Judge's orders

Shri D.B.Walthare, Advocate for Petitioners.
Ms Archana Narad, Adv.h/f Ms Kirti Satpute, Adv. for Resp.

CORAM : Z.A.HAQ, J.

DATED : APRIL 24, 2017.

Heard.

The original defendant Nos.1 and 3 have challenged the order passed by the learned District Judge rejecting the application (Exh.18) filed by them under Order VI Rule 17 of the Code of Civil Procedure.

The learned advocate for the petitioners has submitted that by the proposed amendment the defendants seek to raise a legal ground that the appellant No.2 before the District Court i.e. original defendant No.3 was minor when the civil suit was filed and the appellant No.2/ original defendant No.3 attained majority on 21st September, 2004 and till then the plaintiff had not taken any steps for appointment of guardian for the defendant No.3. It is submitted that as the legal ground is sought to be raised, the learned District Judge ought to have allowed the amendment application.

There is no explanation why the pleadings, which are now sought to be brought on the record by the proposed

amendment, were not brought on the record before the trial Court. The learned District Judge has properly considered the matter and there is neither any patent illegality nor error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

CAW NO. 992 OF 2017.

In view of dismissal of the writ petition, the application praying for stay of the proceedings in question does not survive, hence, it is **disposed**.

JUDGE

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