

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

WRIT PETITION NO. 5355 OF 2016

(Shri Ramu s/o Shankarrao Gotmare ..vs.. Life Insurance Corporation Housing Finance Ltd., Mumbai
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.

DATED : 06-03-2017

None appeared for the petitioner on 20-02-2017. The matter was adjourned. On 28-02-2017 the matter was adjourned on the request of the learned Advocate for the petitioner. Today none appeared for the petitioner in the morning session. The matter was kept back. In the afternoon session, again none appeared for the petitioner when the matter is called out.

2. The petitioner filed civil suit praying for decree for declaration that the action taken by the defendant No.1 is illegal and the defendant No.2 could not have mortgaged the property in question with the defendant No.1 as property belongs to a co-operative society-Amar Udyog Kamgar Gruha Nirman Sahakari Sanstha Maryadit, Nagpur. The plaintiff prayed for decree for perpetual injunction restraining the defendants from taking any illegal action against the plaintiff. An objection to the maintainability of the civil suit was taken because of which the trial Court framed

preliminary issue on the point whether the trial Court (civil Court) has jurisdiction to try and entertain the civil suit. By the order passed on 02-09-2011 the learned trial Judge concluded that the civil suit filed by the plaintiff is not maintainable before the civil Court and returned the plaint to be presented to the Debts Recovery Tribunal. The plaintiff challenged this order in appeal before the District Court which is dismissed by the impugned judgment.

3. The judgment passed by the District Court and the order passed by the trial Court are proper and does not require any interference by this Court in the extra ordinary jurisdiction.

The petition is dismissed. No costs.

JUDGE

adgokar