

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

WRIT PETITION NO. 196/2019

Shri Natthu S/o Kamal Karemore
..VS..
Smt. Kamal W/o Ramkumar Hatwar & anr.

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

Court's or Judge's orders

Ms. S.P. Deshpande, Advocate for the petitioner

CORAM : Z.A.HAQ, J.
DATED : 15/01/2019

Heard.

The respondent no. 1 – plaintiff has filed the civil suit praying for decree for partition and possession of the suit property, claiming that the suit property is ancestral property. The petitioner – defendant no. 1 refutes the claim of the plaintiff. The trial progressed and is at the stage of recording of the evidence. At this stage, the defendant no. 1 filed the application (Exh. 127) under Order 7 Rule 11 of the Code of Civil Procedure contending that the plaintiff was born before the date of commencement of the Hindu Succession (Amendment) Act 2005, and therefore, she is not entitled for any share in the suit property by inheritance. This application is rejected by the learned trial Judge by the impugned order.

After going through the impugned order, I find that the learned trial Judge has rightly refused to consider the application (Exh. 127). The conclusions of the learned trial Judge cannot be faulted with.

I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. No costs.

It is clarified that the issues raised by the defendant no. 1 in the application (Exh. 127) are left open for consideration by the trial Court at the time of deciding the civil suit.

JUDGE

Ansari