

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

WRIT PETITION NO.322/2019

Rajni W/o Manoj Akhre

..Vs..

Sau. Muktabai W/o Madhavrao Akhre

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

Court's or Judge's orders

Shri P.D. Sharma, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.

DATE : 17.1.2019.

Heard.

The present petitioner is daughter-in-law of respondent No.1. The respondents had filed civil suit praying for decree for possession and damages. The trial Court has decreed the civil suit by judgment dated 12th June 2018, directing the defendants (including the present petitioner) to hand over vacant possession of suit property to plaintiff No.1 (respondent No.1). The judgment and decree passed by the trial Court is challenged by the petitioner before the District Court in appeal. Learned District Judge, while examining the appeal has found that the petitioner has not paid proper court fees, and by the impugned order has directed the petitioner to pay the required court fees. This order is challenged by the petitioner in this petition.

The petitioner claims that she is entitled for exemption from paying court fees as per the notification

issued by the State Government on 1st October, 1994 as amended on 23rd March, 2000. The claim of the petitioner is that she occupies the suit property being wife of son of respondent No.1 and, therefore, it has to be treated that the dispute falls in the category of “property dispute arising out of or concerning a matrimonial matter” as specified in the above mentioned notification.

In the facts of the case, the submission made on behalf of petitioner cannot be accepted. From the copy of the plaint which was filed by the respondents before the trial Court, it is clear that the respondent No.1 / plaintiff claimed that the suit property is her self acquired property and the defendants (including the petitioner) have encroached upon the property. The petitioner is not seeking any relief in a dispute arising out of or concerning a matrimonial matter.

It cannot be said that the impugned order suffers from any illegality which necessitates interference by this Court in the extra-ordinary jurisdiction.

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

JUDGE