

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

**WRIT PETITION NO.719 OF 2019**

(HEMRAJ MODKU TADSE (TADAS) & OTH...VS.. PURUSHOTTAM HEMRAJ TADSE (TADAS))

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

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Shri S.S.Shingane, Advocate for Petitioners.  
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**CORAM : Z.A.HAQ, J.**

**DATED : FEBRUARY 01, 2019.**

Heard.

Original defendant Nos. 1 to 4 have challenged the order passed by the trial Court, by which the application (Exh.23) filed by them praying for framing of preliminary issue is dismissed. The defendant Nos. 1 to 4, by the application (Exh.23) submitted that the claim of the plaintiff is barred in view of the provisions of Order II Rule 2 of the Code of Civil Procedure and preliminary issue on that point be framed.

The learned trial Judge has considered the relevant aspects in paragraph Nos. 4 and 5 of the impugned order and has rightly dismissed the prayer for framing preliminary issue on the point as prayed for by the defendant Nos. 1 to 4. Hence, I see no reason to interfere with the impugned order.

Needless to say that the trial Court is bound to frame issue on the point as to whether the claim of the plaintiff is barred in view of the provisions of Order II Rule 2 of the Code of Civil Procedure, if necessitated on the basis of the pleadings, along with the other issues.

With these observations, the writ petition is **dismissed**. No costs.

**JUDGE**

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