

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

WRIT PETITION NO.3316/2017

Suresh S/o Ramaji Girsawale

..Vs..

Parvati W/o Maroti Nimkar

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

Court's or Judge's orders

Shri K.B. Ambilwade, Advocate for the respondent.

CORAM : Z.A. HAQ, J.

DATED : 20.6.2019.

On 18th June 2019, none appeared for the petitioner. Today again when the petition is called out none appears for the petitioner. Heard Shri K.B. Ambilwade, Advocate for the respondent.

The original defendant has challenged the order passed by the trial Court by which the application (Exh. No.29) filed by him praying for recasting the issues is rejected. By the application (Exh. No.29), the defendant prayed for framing the following issues:

- “1. Whether the suit is under valued?
2. Whether the suit is time barred?”

In paragraph No.10 of the impugned order, learned trial Judge has recorded that though the defendant has not raised issue of limitation in the written statement, the Court would be examining it as per the mandate of Section 3 of the Limitation Act. As far as the other issue is concerned, learned trial Judge has examined the material on record and has found that the valuation of the suit claim as made by the plaintiff is

proper and correct.

In the petition, the petitioner / defendant has not pointed out that the impugned order suffers from illegality or error of jurisdiction which necessitates interference by this Court in the extra-ordinary jurisdiction. Hence, I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. As the petitioner and his Advocate remained absent and have not assisted the Court, the petitioner shall pay costs of Rs.5,000/- to the respondent / plaintiff. The amount shall be deposited before the trial Court and receipt of it shall be produced on record of the civil suit till 30th July, 2019. On deposit of such amount, it be given to the plaintiff. If the defendant fails to deposit the amount of costs within time, it shall be treated as disobedience of order passed by this Court and trial Court may pass appropriate orders in the matter.

JUDGE