

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2135/2019

(DURGA @ SUKHBIR KAUR AVTARSINGH MANN & ANOTHER **VERSUS** NARAYAN HANUMANTRAO
 KHAWASHI)

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

Court's or Judge's orders

 Shri R.D. Bhuibhar, counsel for petitioners.

CORAM : A.S. CHANDURKAR, J.

DATE : MARCH 18, 2019.

The petitioners who are the original plaintiffs are aggrieved by the order passed by the trial Court rejecting an application filed by them for recasting of issues by framing an additional issue. It is submitted on behalf of the petitioners that in response to the suit for specific performance, the defendant has raised a plea that the agreement in question is vitiated by fraud and misrepresentation. According to the plaintiffs, the issues as framed at Exhibit 14 do not indicate such burden being cast on the defendant to prove the aspect that the agreement was hit by fraud and misrepresentation.

Perused the pleadings as well as the impugned order. The trial Court in paragraph 5 of the impugned judgment has observed that the controversy between the parties has been covered by the issues already framed. Considering the interlocutory nature of the order, I am not inclined to entertain the challenge at this stage.

With liberty to the petitioners to raise appropriate challenge before the Appellate Court if an occasion arises and by keeping the grounds open, the writ petition is dismissed with no order as to costs.

JUDGE

APTE