

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Writ Petition No. 1923 of 2018.

Naresh Pandurang Sathwane & Anr. Vs. Sheshrao Baldeo Patil & Ors.

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

Court's or Judge's orders.

Shri C. V. Kale, Advocate for Petitioners.
Shri P. N. Kothari, Advocate for Respondents.

Coram: MANISH PITALE, J.

Date : 22nd April, 2019.

1. By this Writ Petition, the Petitioners (Original Defendant Nos. 3 & 4) have challenged the order dated 03/03/2018 passed by the Court of Joint Civil Judge, Junior Division, Nagpur (Trial Court), whereby an application for review filed on behalf of the Petitioners stood rejected. The Petitioners had sought review of an earlier order dated 06/12/2017 passed by the Trial Court dismissing an application for rejection of plaint filed on behalf of the Petitioners.

2. A perusal of the prayer clause of the Writ Petition shows that in clear terms, there is no challenge to the order dated 06/12/2017 by

the Petitioners and what has been made subject matter of challenge squarely in the Writ Petition is only the review order dated 03/03/2018 passed by the Trial Court.

3. Be that as it may, it appears that the grievance of the Petitioners is that, the Trial Court had already framed an issue pertaining to limitation in the suit and that while dismissing their application for rejection of plaint on the ground of limitation, the findings that were rendered, which would hamper their contentions in so far as the main issue of limitation framed along with other issues by the Trial Court.

4. In this situation, without making any observation on the merits of the issue pertaining to limitation, this Court is of the opinion that the Trial Court shall decide the suit on the issues already framed, including the issue of limitation, particularly the contention of the Petitioners that in so far as they are concerned, the suit filed by the Respondent Nos. 1 and 2 is barred by limitation. The said issue being an issue on facts and law may be

decided by the Trial Court by permitting the rival parties to place on record oral and documentary evidence as they may desire.

5. A specific grievance is made before this Court on behalf of the Respondent Nos. 1 and 2 (Original Plaintiffs) that the suit filed by them is pending since the year 1985 and that for one reason or the other, the defendants, including the Petitioners herein have been successfully avoiding final disposal of the suit.

6. Although this contention raised on behalf of the Respondent Nos. 1 and 2 is disputed by the learned counsel appearing for the Petitioners, this Court is of the opinion that it would be in the interest of justice and in the interest of the all parties to this litigation that the suit is finally decided at the earliest.

7. Therefore, the Trial Court is directed to decide the suit bearing Regular Civil Suit No. 1415/1985 filed by the Respondent No.1 on all issues, including the issue of limitation as observed above at the earliest and in any case, within a period of 6 months from today.

8. The Writ Petition is disposed of accordingly. No Costs.

JUDGE