

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

WRIT PETITION NO.5296/2019

Surendra S/o Tikaram Gokhale
..Vs..
Kishorchandra Purushottam Gujrathi and others

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

Court's or Judge's orders

Shri Sachin W. Sambre, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.
DATED : 31.7.2019.

Heard.

2] By the impugned order, learned trial Judge has condoned the delay, set aside the abatement and has permitted the legal representatives of appellant No.6 to come on record of the appeal.

3] Learned Advocate for the petitioner submitted that the impugned order is passed by the learned District Judge reeling under the wrong impression that the suit property is self-acquired property of father of appellant No.1 and respondent Nos.1 to 8 (before the Appellate Court). According to the petitioner, the suit property is ancestral and joint family property.

4] After going through the impugned order, I

find that the observations made in paragraph No.6 of the impugned order are *prima facie* and it goes without saying that the issue whether the suit property is self-acquired property of father of appellant No.1 and respondent Nos.1 to 8 (before the Appellate Court) will have to be decided on merits at the time of deciding the appeal.

Otherwise also, I do not find any illegality in the impugned order permitting the legal representatives of appellant No.6 to come on record. Hence, with the above clarification, the writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

5] This order is passed making certain observations without issuing notice to the respondents as I feel that the order would not cause any prejudice to the respondents, however, if the respondents feel that the impugned order is causing any prejudice to their rights and contentions before the Appellate Court, they will be at liberty to approach this Court by filing appropriate application.

6] As the appeal is of 2009, learned District Judge is directed to decide the appeal till 30th November, 2019.

JUDGE