

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

WRIT PETITION NO.6074/2019

Smt. Indubai W/o. Damodhar Sukhadeve & Oth.

..VS..

Suhas Krushnarao Deshmukh & Anr.

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

Court's or Judge's orders

Shri N. B. Raut, Advocate for the petitioners

CORAM : Z.A.HAQ, J.

DATED : 3rd September 2019

Heard.

2] Civil Suit filed by the respondents/plaintiffs seeking decree for specific performance of agreement of sale is dismissed. The judgment and decree passed by the trial Court is challenged by the plaintiffs before the District Court in appeal which is pending. During the pendency of the appeal, the plaintiffs had filed an application (Exh. 15) seeking permission to amend the plaint and to make an alternative prayer restricting the claim for specific performance of agreement of sale against the defendant Nos. 1 and 3 and relinquishing the said claim against the defendant No.2. This application is allowed by the impugned order.

3] After examining the controversy and going through the impugned order, I find that the learned District Judge has examined the controversy rightly and has rightly applied the judgments considering the facts of

the case. Order 23 Rule 1 of the Code of Civil Procedure permits the plaintiffs to abandon part of claim against any of the defendant, at any stage. I find that the impugned order is proper and does not suffer from any patent illegality or error of jurisdiction which necessitates interference by this Court in the extra-ordinary jurisdiction.

Hence, writ petition is **dismissed**. No costs.

(Z.A.HAQ, J.)

Namrata