

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

WRIT PETITION NO.6826 OF 2019

(Sunil Madanlal Chandak ..vs.. Balkrushna Tukaram Pimpalshende 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 A.A. Dhawas, Counsel for the petitioner.

CORAM : ROHIT B. DEO, J.

DATED : 11-11-2019

The petitioner is defendant 1 in Regular Civil Suit 63/2013 brought for arrears of rent and recovery of possession.

2. Defendant 1 preferred an application, on 27-9-2013 purportedly under the provisions of Order VI Rule 16 of the Civil Procedure Code for striking-off the pleadings, which is rejected by the order impugned.

3. The learned trial Court has held that the pleadings are not scandalous and whether the pleadings are frivolous or otherwise would be a matter to be decided after the parties adduced evidence.

4. Having perused the record, I am satisfied that the order impugned does not warrant any interference in writ jurisdiction.

5. The learned trial Court is perfectly right in

holding that the frivolousness or otherwise of the pleadings would be decided at a later stage. Illustratively, the contention of defendant 1 is that what is pleaded is contrary to the principle of *res judicata*. Whether the case of the plaintiffs is hit by the principle of *res judicata* or otherwise would be an issue which may or may not call for adjudication. However, at this stage, the pleadings cannot be struck-off accepting the plea of defendant 1.

6. For reasons inexplicably, the application for striking-off pleadings, which is filed in the year 2013 is decided in 2019. In this view of the matter and in the interest of both the plaintiff and defendant 1, the trial Court is directed to dispose of the suit finally as expeditiously as possible, and in any event, without six months.

7. The trial Court shall not grant any adjournment unless an exceptionable or compelling case is made out.

8. The trial Court shall file a status report in the registry of this Court once in three months. The Registrar (Judicial) is requested to bring this order to the notice of the trial Court.

JUDGE