

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

WRT PETITION NO.174/2021

Sau. Kamala Sharad Kapse and others

...Versus...

Shri Laxman Shantaram Kshirsagar (Being Dead, through his L.Rs.)

Smt. Suman wd/o Laxman Kshirsagar and others

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

Court's or Judge's orders

Shri S.M. Vaishnav, Advocate for petitioners
Shri S.S. Alaspurkar, Advocate for respondents

CORAM : AVINASH G. GHAROTE, J.

DATE : 17/09/2021

1. Since the impugned order, rejects the application under Order VII Rule 11 of the Code of Civil Procedure, the same would be amenable to a challenge under Section 115 of the Code of Civil Procedure and not under Article 226 and 227 of the Constitution of India, in view of which, the writ petition would not be maintainable.

2. Shri Vaishnav, learned Counsel for the petitioners seeks leave to withdraw the petition with liberty to file a Civil Revision Application with a request that the interim order dated 11/01/2021 be continued for a period of ten days to enable him to file the appropriate proceedings.

3. Shri Alaspurkar, learned Counsel for the respondents has no objection.

4. Leave to withdraw the writ petition is granted.

5. The writ petition is disposed of as withdrawn with liberty as prayed for and the interim relief dated 11/01/2021 to continue for a period of ten days from today.

There shall be no order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar