

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

WRIT PETITION NO.1321 OF 2021

Smt. Kalabai @ Kalavati Jeevan Lambat

Vs.

Pravin s/o Keshavrao Ladekar and others

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

Court's or Judge's orders

Mr. N. A. Jachak, Advocate for petitioner.

Mr. S. P. Kshirsagar, Advocate for respondent nos.1 to 3.

Ms. T. Khan, AGP for respondent no.4.

CORAM : AVINASH G. GHAROTE, J.

DATE : 16/09/2021

Heard Mr. Jachak, learned Counsel for the petitioner, Mr. Kshirsagar, learned Counsel for respondent nos.1 to 3 and Ms. Khan, learned AGP for respondent no.4.

2. The limited question is raised that while deciding application at Exh.70, an application for deciding the application at Exh.69 (an application for referring matter to the High Court for taking contempt action against defendant no.1) before the application at Exh.66 (an application for amendment of the written statement), the learned Trial Court has commented upon the maintainability or requirement of the application at Exh.69, which was impermissible. It is contended that

while deciding the application at Exh.70 the only issue which was to be considered was the precedence sought in Exh.70 and nothing else. The Trial Court while commenting on the merits of application at Exh.69 therefore, has erred according to the learned Counsel.

3. Mr. Kshirsagar, learned counsel for respondent nos.1 to 3 agrees with the contention that while deciding the application at Exh.70, the learned Trial Court ought to have refrained from going into the merits of the application at Exh.69.

4. In view of the above statement the learned Trial Court is directed to decide the application at Exh.69 and the application at Exh.66 independently of each other, without being influenced by the observations made in para 8 of the impugned order dated 20.2.2021, in respect of the application at Exh.69.

5. The Writ Petition is accordingly disposed of in the above terms.

JUDGE