

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

WRIT PETITION NO.3159/2018

Hemant s/o Balchandra Wadgaonkar,
Aged about 62 years, Occ. Retired,
R/o. C/o. M. N. Gawande, Mothi Umri,
Ayodhya Nagar, Akola,
Tah. and District Akola.

..... **PETITIONER**
(Ori. Def. No.1)

// VERSUS //

1. Smt Pratibha Ajay Wadgaonkar
Aged about 45 years, Occ. Service,
2. Ku. Ankita d/o. Ajay Wadgaonkar,
Aged about 24 years, Occ. Education,
3. Gaurav S/o Ajay Wadgaonkar,
Aged about 22 years,
Occ. Education, All R/o Tilak Rashtriya School,
Mothi Umari, Akola, Tah. and District Akola. **RESPONDENTS**
(Ori.Plttff.)

Shri O. Y. Kashid, Advocate for petitioner.
Shri A. R. Deshpande, Advocate for respondent no.1.

CORAM : AVINASH G. GHAROTE, J.
DATED : 08/03/2021

ORAL JUDGMENT : (PER:- AVINASH G. GHAROTE, J.)

1] Heard Mr Kashid, learned counsel for the petitioner and Mr. Deshpande, learned counsel for the respondents.

2] **Rule.** Rule made returnable forthwith.

3] Heard finally by consent of the learned counsel appearing for the parties.

4] The present petition challenges the order dated 16.12.2017, by which the application for permission to cross-examine the plaintiff has been rejected. It is not in dispute that a no cross order was passed on 10.06.2015. Though, it is contended by the learned counsel for the petitioner, that thereafter an application for consequential amendment was filed and the same was allowed, no such order has been placed on record. However, it is not disputed that an additional issue came to be framed by the learned Trial Court regarding the valuation of the suit. It is trite that all matters ought to be decided on merits and cross-examination, is an integral part of the same. Any inconvenience caused can always be compensated.

5] The impugned order, therefore, is quashed and set aside and the application for permission to cross-examine as filed by the defendant at Exh.37 is hereby allowed, however, subject to the costs of Rs.5,000/- (Rs. Five Thousand only) to be deposited by the defendant prior to commencement of the cross-examination before the Trial Court, which the plaintiff will be entitled to withdraw. The learned Trial Court is requested to decide the suit expeditiously and in any case within a period of one year from the date of this order.

Rule is made absolute.

JUDGE