

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

WRIT PETITION NO.4430 OF 2019

Sharda Gopal Enchilwar and others

Vs.

Smt. Kunda w/o Deorao Govindwar 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. R. R. Vyas, Advocate for petitioners.
Mr. U. P. Dable, Advocate for respondents.

CORAM : AVINASH G. GHAROTE, J.

DATE : 21/09/2021

Heard Mr. Vyas, Advocate for petitioners and Mr.
Dable, Advocate for respondents.

2. Mr. Vyas, learned Counsel for the petitioners fairly submits that in view of the amendment to the Code of Civil Procedure, 1908 in relation to Section 9A by the Notification dated 29.10.2018, whereby Section 9A has been deleted with retrospective effect, the application as filed by the defendant would not be maintainable, since Sub-section (3) of the Notification dated 29.10.2018 is not attracted, in view of which, the challenge to the impugned order would also not survive.

3. The statement is accepted and the petition is dismissed, in view of the above position recorded.

4. The learned Counsel further submits that since issue of limitation arises, which is not disputed by Mr. Dable, learned Counsel for the respondents, since the same has not been framed, the learned Trial Court be directed to frame the same and decide with the other issues, to which also, Mr. Dable, learned Counsel has no objection, in view of which,

(2)

7.wp.4430.2019

there shall be direction to the above effect to the learned Trial Court for framing the issue of limitation and deciding the same along with the other issues.

JUDGE

Sarkate