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bring time barred claim of mens profit within limitation. She would further urge that Court below has failed to appreciate the very principle of Order II Rule 2 of Code of Civil Procedure, 1908 as when the Suit was initiated, Respondent-Plaintiff has chosen not to come out with a prayer for recovery of mens profit. As such, by relying on the Judgment of the Apex Court in the matter of **Shiv Kumar Sharma V/s. Santosh Kumari**¹ and the Judgment of this Court in the matter of **Avinash Karnik V/s. Ajit Karnik and Others**² it is claimed that amendment is granted de-hors the provisions of law.

3) I have appreciated contentions raised in the light of law laid down by the Courts in the aforesaid Judgments and also nature of amendment granted.

4) In my opinion, Respondent-Plaintiff had every right to claim mens profit provided such claim is made within limitation. To that extent claim of Respondent-Plaintiff seeking inquiry in the matter of mens profit and recovery of the same is quite justified.

5) With an observation that the Trial Court while deciding the Suit claim will be sensitive to the issue of limitation as to the period

¹ (2007) 8 Supreme Court Cases 600

² 2019 SCC OnLine Bom 1057

within which the plea for inquiry and recovery of mens profit should be entertained, I hardly see any reason which warrants interference in extraordinary jurisdiction.

6) Petition as such fails, stands dismissed.

[NITIN W. SAMBRE, J.]

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