

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 495 OF 2015
IN
WRIT PETITION NO. 5738 OF 1999**

Nadeem Majid Oomerbhoy

.. Applicant

In the matter between :

Aresh Aspandiar Irani & Ors.

.. Petitioners

Vs.

Afzal Abdul Sattar & Ors.

.. Respondents

Ms.Sonal a/w. Ms.Jyoti Ghag i/b M/s. Thakore Jariwala & Associates for applicant.

Mr.Venkatesh Dhond, senior advocate a/w. Ms.Ferzana B. Kamdin, Ms.Sulesha Shethi i/b FZB & Associates for petitioner nos. 2 to 4.

CORAM : K.R.SHRIRAM, J.

DATE : 2ND MARCH, 2015

P.C.

1 This application is filed to recall or modify order dated 4th December 2014 as corrected by order dated 19th December 2014. In the said order, this Court was pleased to direct the learned Judge of the Small Causes Court, Mumbai to dispose of R.A.E.Suit No.809/3046 of 1982 by 30th June 2015 after it was made clear that no further extension will be granted. This Court was also pleased to direct the learned Judge to proceed with the suit on day-to-day basis. At the same time it was also mentioned that the learned Judge of Small Causes Court shall not grant adjournments to any of the party unless absolutely necessary.

2 The applicant is seeking certain modification to the extent that the direction to proceed with the trial on day-to-day basis be removed. The reason being the applicant is involved in many litigations in various courts and is not able to remain present on day-to-day basis.

3 I see no reason why the order of this Court passed on 4th December 2014 requires any modification. In fact, the applicant had filed an application on 21st January 2015 to adjourn the hearing of the suit by one day so that he could remain present in the High Court in connection with the two other suits and the learned Judge, despite objection from the plaintiff, had granted time. These are discretionary orders and the trial Court is only complying with the directions passed earlier.

4 In the circumstances, the civil application is rejected.

(K.R. SHRIRAM, J.)