

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2638 OF 2015

Manisha Rajendra Temkar .. Petitioner
vs.
Omprakash Buswal .. Respondent

Mr. V.R. Tripathi for the Petitioner.
Mr. N.V. Gupta for the Respondent.

CORAM : M. S. SONAK, J.
DATE : 7 April, 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] This petition challenges the order dated 10 March 2015, by which the learned City Civil Judge has directed the petitioner to produce Power of Attorney dated 13 December 2014 on record in the suit, since the suit seeks a declaration in respect thereof and further the same is necessary for deciding the issue of territorial jurisdiction.

3] The petitioner contends that the Power of Attorney is not in her possession. Such clear statement has not been made in the plaint. The petitioner further contends that such Power of Attorney

has executed at Bandra. Again, there is no clear statement to that effect in the plaint.

4] The learned counsel for the petitioner, however, submits that the petitioner be granted leave to amend the plaint and that such clear statements were not made in the plaint, because such statements appeared in the notice accompanying the plaint.

5] In the peculiar facts and circumstances of the present case, ends of justice will be met, if the petitioner is granted liberty to take out an appropriate application seeking leave to amend the plaint, *inter alia*, by incorporating statements to the aforesaid effect.

6] For the aforesaid purposes, it is necessary to set aside the impugned order, as the petitioner apprehends that the suit itself may be dismissed for non-prosecution, in case, the directions contained in the impugned order is not complied with.

7] Accordingly, the impugned order is set aside. The learned counsel for the petitioner states that an application seeking leave to amend the petition will be made within a period of two weeks from

today. If such application is made, then the same be considered and disposed of, by the learned City Civil Judge, in accordance with law.

8] Rule is accordingly made absolute to the aforesaid extent. In the facts and circumstances of the present case, the petitioner to pay costs of Rs.1,500/- (Rs. One Thousand Five Hundred only) to the respondent. Such costs to be paid within a period of two weeks from today.

(M. S. SONAK, J.)

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