

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8020 OF 2015

Raphael Ralphy Ezekiel Jhirad .. Petitioner
vs.
ORT India and ors. .. Respondents

Mr. C.N. Chavan for the Petitioner. for the Petitioner.
Ms Ranjana Parikh i/b Divya D. Jain for Respondents.

CORAM : M. S. SONAK, J.
DATE : 11 AUGUST 2015.

P.C. :-

1] In this petition, the challenge is to the order dated 25 October 2010 made in L.E.& C. Suit No. 132/149 of 2004, by which the petitioner's defence came to be struck off.

2] The L.E.& C. Suit No. 132/149 of 2004 has been decreed on 17 March 2012. Accordingly, this petition is rendered infructuous. However, the petitioner has already instituted Misc. Appeal No. 218 of 2013 questioning the decree dated 17 March 2012 in L.E.& C. Suit No. 132/149 of 2004. Accordingly, it is clarified that the petitioner shall be at liberty to challenge the order dated 25 October 2010 in the said substantive appeal upon the principles analogous to those set out in Section 105 of the CPC.

3] If such specific relief has not already been applied for in the substantive appeal, the petitioner is granted liberty to amend the memo of appeal, within a period of two weeks from today, to raise challenge to the order dated 25 October 2010.

4] With the aforesaid observations, this Petition is disposed of.

5] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)

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