

Sequeira

WRIT PETITION NO. 4427 OF 2015.

Dr.(Mrs.)Jyoti Vidyut Contractor & ors. .. Petitioners
Vs.
Mrs.Jyoti Dinesh Parekh & ors. .. Respondents

Mr.Bipin Joshi a/w Mr.Jitendra Bukliwal, Mr.Prayag Joshi and Ms.Hemal Ganatra, for Petitioners.
Mr.Mustafa Doctor, Senior advocate a/w Mr.Gaurav Mehta, Mr.Ranjit Shetty and Ms.Amrita Sarkar i/b Udwardia Udeshi & Argus Partners, for Respondents.

CORAM: N.M.Jamdar, J.
Thursday 30 April, 2015

PC :

Rule. Rule made returnable forthwith. Respondents waive service. Taken up for final disposal by consent.

2 By the impugned order, the learned Small Causes Court
Mumbai, has rejected application of the Petitioners to issue witness
summons to one of the witnesses that Petitioners propose to
examine.

3 After hearing the matter for some time, the learned counsel
for the parties agreed that the petition can be disposed of with the

following directions, and it being an interlocutory matter, it is not necessary to give detail reasoning, as it might prejudice the case of the parties on merits. Accordingly, the petition is disposed of as under -

a) The impugned orders passed by the learned Small Causes Court i.e. in RAE Suit No.5465 of 1981 order dated 26.3.2015, passed on Exhibit 1, Order dated 6.4.2015 passed below Exhibit 141 and Order dated 6.4.2015 passed below Exhibit 142, are quashed and set aside.

b) The Application filed by the Petitioner dated 6 April 2015 Exhibit 142 of 2015 in RAE Suit No.5465 of 1981 is partly allowed. The Small Causes Court accordingly, shall issue a witness summons to the defendant's witness namely, Chandubhai Patel of Shri S.Galaxy. The returnable date and date for examination of the said witness will be 28 June 2015.

c) It is agreed that if the said witness fails to remain present in the Court on the date assigned, the trial will proceed on merits.

d) The Petitioners will pay costs of Rs.5,000/- to the Respondents within period of two weeks from today.

Writ petition is disposed of in above terms.

(N.M.Jamdar, J.)