

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11318 OF 2015

M/s. M. K. Group ... Petitioners
Vs.
Express Infonet (I) Pvt. Ltd. and others ... Respondents

Mr. G. S. Godbole, Senior Advocate a/w. Mr. Ashok V. Jain for Petitioner.
Mr. Madhav Jamdar for Respondent No.1 and 3.
Mr. H. T. Pawar for Respondent No.2.

CORAM : R. G. KETKAR, J.
DATE : DECEMBER 03, 2015

P.C. :

Heard Mr. Godbole, learned Senior Counsel for petitioner, Mr. Jamdar, learned Counsel for respondent No.1 and 3 and Mr. Pawar, learned Counsel for respondent No.2. Rule. Learned Counsel appearing for the respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

2. By this Petition under Article 227 of the Constitution of India, petitioners have challenged the order dated 22.01.2015 passed by the learned Judge, City Civil Court at Dindoshi (Borivali Division), Mumbai in Chamber Summons No.339 of 2013 in Suit No.658 of 2009. By that order, the learned trial Judge allowed the Chamber Summons taken out by the plaintiffs for joining petitioners herein as party defendants. Perusal of paragraph 4 of the order shows that nobody appeared on behalf of petitioners. In view thereof, during the course of hearing of this Petition, I suggested to the learned Counsel appearing for the respondents as to whether they are agreeable to set aside the impugned order by consent. In due deference to the suggestion made by

the Court, learned Counsel appearing for the respondents fairly stated that by consent of the parties, impugned order may be set aside and Chamber Summons may be restored. They further submit that parties will appear before the trial Court on 07.12.2015 and the trial Court may be directed to dispose of the Chamber Summons within two weeks, keeping all contentions of the parties on merits open.

3. In view thereof, by consent of the parties, Petition is disposed of in the following terms:

- a. Impugned order dated 22.01.2015 is quashed and set aside;
- b. Chamber Summons No.339 of 2013 is restored to the file of the trial Court;
- c. Parties shall appear before the trial Court on 07.12.2015 and for that purpose, no fresh notice be issued to them;
- d. The learned trial Judge is requested to decide the Chamber Summons within two weeks from the date of appearance of the parties;
- e. All the contentions of the parties on merits are expressly kept open.
- f. Rule is made absolute in the aforesaid terms with no order as to costs.

4. Parties to act on the authenticated copy of this order.

(R. G. KETKAR, J.)

Minal Parab