

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10333 OF 2014

Mrs. Madhavi Sadanand Lad	..	Petitioner
VS.		
M/s. Kavis Fashions Pvt. Ltd.	..	Respondent

Mr. Yogesh Naidu with Ms Sushma Singh for Petitioner.
Mr. Mayur Khandeparkar with Mr. Vijaykumar Bindra Prasad Kanoria for Respondent

CORAM : M. S. SONAK, J.
DATE : 24 AUGUST 2015

P.C. :-

1] The learned counsel for the petitioner expresses an apprehension that certain observations in the impugned order dated 27 August 2014, might come in the way of the petitioner applying for deposit of certain amounts during the pendency of L.E. & C. Suit No. 106/142 of 2010. In particular, the learned counsel for the petitioner makes reference to observations in paragraph 17 of the impugned order dated 27 August 2014, in which, the Trial Court has observed that the notice taken out by the petitioner – plaintiff to direct the defendant to pay an amount of compensation during pendency of determination of preliminary issue of jurisdiction is liable to be rejected.

2] The apprehension expressed by the learned counsel for the petitioner is quite unfounded. What the aforesaid observation means is that there is no necessity to decide such application made during pendency of determination of preliminary issue of jurisdiction. Admittedly, the preliminary issue of jurisdiction has already been decided in favour of the petitioner. Accordingly, the petitioner shall be entitled to make application for payment of compensation during the pendency of the suit itself. Further, the learned counsel for the petitioner points out that application at Exhibit '9' has also not been disposed of as yet. If so, the same is also required to be disposed of.

3] It is however made clear that the Trial Court shall hear and decide any application for deposit or for that matter application at Exhibit '9' in accordance with law and on its own merits. As noted earlier, there is nothing in the order dated 27 August 2014 which can come in the way of the petitioner making such an application for deposit (including application at Exhibit '9' if the same is not already disposed of).

5] It is once again clarified that this Court has not gone into the merits of the matter and accordingly all contentions of all parties are specifically left open for decision by the Trial Court in accordance with law and on its own merits.

6] With the aforesaid observations, this petition is disposed of.
There shall be no order as to costs.

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

(M. S. SONAK, J.)

Chandka