

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (W) No. 3604 of 2014 in W.P.No. 6563 of 2014

Rameshchandra s/o Satyanarayan Soni vs. M/s Bhagwati Trading Company
and another.

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	<u>Court's or Judge's</u> <u>Orders.</u>
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CORAM : Z.A.HAQ, J

DATE : 17.3.2015

This is an application praying for leave to enable Shri Basant Kumar Soni, holder of General Power of Attorney to represent the petitioner. This Court, while issuing Rule, has heard Shri Basant Kumar Rameshchandra Soni as shown in the orders dated 2nd December, 2014 and 13th January, 2015. The civil application in terms is allowed.

Writ Petition No. 6563 of 2014:

2. Heard Shri B.R.Soni, holder of General Power of Attorney on behalf of the petitioner. None appears for the respondents.

3. Today, the matter is listed for order on Civil Application (W) No. 3604 of 2014.

4. There is another Civil Application No. 541 of 2015 pending for consideration. In this application the petitioner has prayed for directions to the trial court to decide the application (Exh. 17). Along with the Civil application, the petitioner has filed several documents including the copy of the order passed by the trial Court on 23rd February, 2015, by which, the order passed by it on the application (Exh.17) on 30th August, 2014 is recalled.

5. In the writ petition, the petitioner has challenged the order passed by the trial court on the application (Exh. 17) on 30th August, 2014, by which, the trial court directed the respondents to deposit the water charges and property taxes. By the impugned order, the trial court rejected the claim of the petitioner for the arrears of rent along with interest. The petitioner has challenged this part of the order in the writ petition.

6. The respondents had filed an application (Exh. 155)

praying that the order passed by the trial court on the application (Exh. 17) on 30th August, 2014 be recalled. The trial court by the order dated 23rd February, 2015 has recalled the order passed by it on the application (Exh.17) on 30th August, 2014. In view of this development, the petition has become infructuous.

7. Shri B.R.Soni has submitted that the trial court, while recalling the order passed on 30th August, 2014, has observed in the order dated 23rd February, 2015 that the point as to whether the respondents are liable to pay the corporation tax is required to be decided. An apprehension is expressed that the trial court would be deciding only about the liability of the respondents to pay the Corporation Tax and not the liability of the respondents to pay the arrears of rent and the water charges, as claimed by the petitioner. Though the apprehension as expressed by Shri B.R.Soni is not borne out from the order passed by the trial court, it is clarified that the trial court while deciding the application (Exh. 17) shall decide the claim made by the petitioner under all the heads i.e. property tax, water charges and arrears of rent.

8. By amending the writ petition, the petitioner sought directions to the trial court to quantify the amount of costs imposed by the orders passed below the applications (Exhs. 29, 40, 49, 65 and 70). The trial court, while disposing of the above referred applications, has directed the respondents/ defendants to bear the costs of the petitioner/ plaintiff. I do not find any ambiguity in the order passed by the trial court. If the petitioner has to seek any clarification in the matter, the petitioner shall approach the trial Court in the matter.

9. With the above observations, the Writ Petition is disposed of as infructuous at this stage. The learned trial Judge shall decide the application (Exh. 17) on merits considering all the points raised by the petitioner and the respondents within two months.

In view of the disposal of the writ petition, the civil application no. 541 of 2015 is rendered infructuous and disposed of as such.

JUDGE

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