

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

WRIT PETITION NO. 178 OF 2014

Ratnakant Dattaram Singasane & ors. ... Petitioners
Vs
Aruna Chandrakant Bari & ors. ... Respondents.

Mr.Sandesh Patil i/b Mr.Dharmesh Joshi, for Petitioners.
Ms.Vaishali Nimbalkar – Assistant Government Pleader, for
Respondent No.3.

***CORAM : N.M.Jamdar, J.
Friday, 16 September 2016.***

P.C. :

The Petitioners challenge the order dated 5 December 2013. By order dated 3 February 2014, notice has been issued to the Respondents. The learned counsel for Petitioners states that Respondents are served. None appears for Respondents.

2. By the impugned order dated 5 December 2013, the learned City Civil Court Judge, has refused to take the Chamber summons on record, since the Petitioners and the advocate were not present on various dates.

3. Heard learned counsel for Petitioners. The learned City Civil Court Judge has recorded that when the matter was adjourned from time to time the advocate for Petitioners was not present. On 25

October 2013 an adjournment was sought and the request was rejected and the suit was kept for dismissal. Thereafter an application was moved to remove the matter from caption of 'dismissal'. Considering heavy pendency of the matters in the Courts such applications for adjournment cannot be casually granted by the Court neither there is any vested right in seeking adjournment. The learned counsel for Petitioners has undertaken that an affidavit of apology will be tendered in the City Civil Court and that the grievance of the Petitioners is that he has been dispossessed from the suit premises and opportunity needs to be given to the Petitioners. Accordingly, the Writ Petition is disposed of with the following order-

i) The Petitioners will file affidavit of apology and an undertaking that no needless adjournment will be sought in future.

ii) The affidavit will be filed in the Court taking up the suit in question. In view of this affidavit the learned City Civil Court Judge will consider the Chamber summons which is sought to be presented by the Petitioners on its own merits and pass appropriate orders.

4. In view of this liberty and clarification, no further orders are required to be passed in this Writ Petition, it is accordingly disposed of.

(N.M.Jamdar, J.)