

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.183 OF 2015

M/s. Krishna Agencies and others ... Petitioners
Vs.
M/s. Trikut Nutritions and others ... Respondents

WITH
WRIT PETITION NO.3042 OF 2014

M/s. Trikut Nutritions and others ... Petitioners
Vs.
M/s. Krishna Agencies and others ... Respondents

Mr. P. Jaiswal a/w. Mr. Nikunj Mehta i/b. Mr. S. H. Bohra for Petitioners in Writ Petition No.183 of 2015 and Respondents in Writ Petition No.3042 of 2014.

Mr. S. M. Gorwadkar, Senior Counsel along with Mr. Ravi Shinde and Mr. M. Singh i/b. Mr. Sujay Gangal for Petitioners in Writ Petition No.3042 of 2014 and Respondents in Writ Petition No.183 of 2015.

CORAM : R. G. KETKAR, J.
DATE : DECEMBER 06, 2016

P.C. :

Heard Mr. Jaiswal, learned Counsel for petitioners in Writ Petition No.183 of 2015 and respondents in Writ Petition No.3042 of 2014 and Mr. Gorwadkar, learned Senior Counsel for petitioners in Writ Petition No.3042 of 2014 and respondents in Writ Petition No.183 of 2015. Rule. Learned Counsel for respective respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and the Petitions are taken up for final hearing.

2. Both these Petitions challenge the judgment and order dated 24.02.2014 passed by the learned trial Judge, City Civil Court, Borivali Division, Dindoshi, Mumbai in Summons for Judgment No.1 of 2014 in Short Cause Suit No.3022 of 2013. By that order, the learned trial Judge rejected the Summons for Judgment and granted leave to the defendants

to defend the Suit subject to furnishing security of 1/4th of the suit claim within four weeks from the date of the order. It was made clear that - if the defendants fail to furnish security as directed, within the stipulated period, plaintiffs shall be entitled for the money decree as claimed and court fee as per rules; if the defendants deposit the security amount, the Registrar is directed invest the same in any nationalized bank in fixed deposit initially for 1 year and later on from time to time as per the directions of the Court. Aggrieved by this order, both, the plaintiffs and defendants have filed these Petitions.

3. Learned Counsel appearing for the parties state that by consent of the parties, impugned order may be set aside and the Summons for Judgment may be restored to the file of the trial Court for deciding the same afresh. Learned Counsel for the parties assure that they will appear before the trial Court on 05.01.2017 and for that purpose, no fresh notice be issued to them. They further submit that the learned trial Judge may be directed to dispose of the Summons for Judgment in a time bound manner.

4. In view thereof, by consent of the parties, following order is passed:

- a. Impugned order dated 24.02.2014 is set aside and Summons for Judgment No.1 of 2014 is restored to the file of the trial Court;
- b. Parties will shall appear before the trial Court on 05.01.2017 and for that purpose, no fresh notice be issued to them;
- c. The learned trial Judge is requested to decide the Summons for Judgment within 6 weeks from the date of appearance of the parties;

- d. All contentions of the parties on merits are expressly kept open;
- e. Rule is made absolute in the aforesaid terms in both the Petitions with no order as to costs.

(R. G. KETKAR, J.)

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