

Sequeira

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

WRIT PETITION NO. 8742 OF 2016

M/s.Anupam Rasayan India Limited
(formerly known as M/s Anupam Rasayan). ... Petitioner
Vs.
M/s.Liberty Exports Ltd. ... Respondent

Mr.A.Haindaday h/f Rajesh Kothari & Co., for the Petitioner.
Mr.Nikunj Mehta a/w Mr.Jinesh Jani, for the Respondent.

***CORAM : N.M.Jamdar, J.
Tuesday, 30 August 2016.***

P.C. :

In view of the statement made by the learned counsel for the Respondent - original Plaintiff that the impugned order be set aside, the Petition is taken up for disposal forthwith.

2. The Petitioner challenges the order passed by the learned City Civil Court Judge dated 17 June 2016 in Notice of Motion No.4946 of 2015, rejecting the Notice of Motion taken out by the Petitioner for stay of the suit. At the outset, the learned counsel for the Respondent – Plaintiff states that the learned Judge in the impugned order has not considered various aspects of the matter as were been pleaded by the Respondent and therefore, Respondent is handicapped in advancing any arguments. The learned counsel for the Petitioner has assailed the order on various grounds on the basis

of legal infirmities therein. Both learned counsel for the parties are ad-idem that the impugned order cannot be sustained.

3. The learned counsel for the Petitioner has sought to contend that the Writ petition should be allowed and also the Notice of Motion in this Writ petition itself. However since the learned counsel for the Respondent has not opposed setting aside the impugned order on the grounds stated above, it will be appropriate that the impugned order is quashed and set aside and the Notice of Motion No.4946 of 2015 is restored to file. The learned City Civil Court Judge, will consider the Notice of Motion and conclude hearing of the Notice of Motion preferably within period of six weeks from the date the writ of this Court reaches it, provided both the learned counsel for the parties cooperate with the learned Judge for early disposal. The learned counsel for the Respondent states that till the Notice of Motion is so decided the suit will not be proceeded with. This statement is accepted. Keeping all contentions open in the Notice of Motion, the Writ Petition is disposed of.

(N.M.Jamdar, J.)