

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

WRIT PETITION (ST) NO. 20801 OF 2016

Amrita Nikki Malhotra

... Petitioner

v/s

Reena Sanjay Minz & ors.

... Respondents

Mr.S.R.Page along with Kantilal Kanojia for the petitioner.

Mr.Bhavesb Parmar i/by Devmani Shukla for Resp. Nos.1 and 2.

Coram: N.M. Jamdar, J.

Dated: 19 August 2016

P.C.:

Not on board. Taken on production board in view of the *praecipe* filed by the Petitioner.

2 The Petitioner challenges the order passed dated 6 February 2016 on a notice of motion taken out by the Respondents/Plaintiffs under Order 39 Rule 2(a). The order 39 Rule 2(a) provides for consequence of disobedience of breach of injunction and empowers the Court to pass an order of imprisonment. The order that has been assailed by the Petitioner in the present petition is allowing the notice of motion and holding that the Petitioner is guilty of breach of

disobedience. However, there is no further order imposing any punishment and liberty is granted to the Respondents/Plaintiffs to move a motion for imposition appropriate punishment. It is informed that the motion has been filed by the Respondents/Plaintiffs and is kept for hearing on 22 August 2016. Learned counsel for the parties also agree that there is an appeal provided against an order passed under Order 39 Rule 2(a) imposing punishment. The order which is assailed in the present writ petition will be a foundation for the order that may be passed on the motion filed by the Respondents/ Plaintiffs and the order which is assailed in this petition will have to be treated as a part of the said order since it supplies reasons why punishment is imposed, if any. The Petitioner can always assail the findings recorded by the learned City Civil Court Judge in the impugned order, when challenge is made to the order imposing punishment. Since that remedy is available to the Petitioner, it is not necessary to entertain the present writ petition. Keeping the contentions of the parties open, in case any appeal is filed by the Petitioner, the writ petition is disposed of.

(N. M. Jamdar, J.)