

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

WRIT PETITION NO. 8192 OF 2014

Saudi Arabian Airlines,
Office at 41-42, 4th floor,
Maker chamber-VI, Nariman Point,
Mumbai – 400 021.

... Petitioner

v/s

Shehnaz Mudbhatkal,
A-702, Milton Apartments,
Juhu Tara Road, Santacruz (W),
Mumbai – 400 054.

... Respondent

Mr.Rohan Cama along with P.I. Paulose and Netaji Gawade i/by
M/s.Sanjay Udesb & Co. for the petitioner.

Ms.Shehnaz Mudbhatkal - the respondent in person.

Coram: N.M. Jamdar, J.

Dated: 1 SEPTEMBER 2016

ORAL ORDER:

Heard learned counsel for the Petitioner and party in person.

2 There are various issues that have been raised by the learned counsel for the Petitioner and the Respondent - party in person, as regard the stage at which the preliminary issue framed in this suit

needs to be decided. The preliminary issue was framed in the year 1999 and subsequently on 7 April 2005 the notice of motion for interim relief was disposed of by arriving at certain amicable settlement regarding the interim relief. It appears that, while disposing of the notice of motion, the position as to whether the issue framed under Section 9A of the Act needs to be decided before the notice of motion has to be finally disposed of, was not adverted to, which has resulted into controversy between the parties regarding the stage at which it has to be decided. It further cannot be lost sight of that, since the suit is pending since the year 1999 and the Respondent is now superannuated from service, that the suit must be decided at an early date. Therefore, without going into the controversy in legal aspects of the above matter, which would take further time as the petition itself is at admission stage and final hearing will take long time, the learned counsel for the Petitioner and the Respondent-in-person have agreed that a methodology could be adopted by which the suit is disposed of without any further delay. During the course of hearing on 24 August 2016, the learned counsel for the Petitioner, on instructions, had made a statement that if the preliminary issue is decided first and the outcome is against the Petitioner, the Petitioner will challenge the same after the final decree and would not challenge it before. The matter was adjourned till today for the party in person to take instructions. After it was heard for some time, the matter was kept back for the counsel for the Petitioner and the party-in-person to discuss the matter. The learned counsel for the and the party-in-

person then mentioned the matter, and informed that both of them have reflected over the issue and they have arrived at a consensus. The learned counsel for the Petitioner and the party in person have agreed for disposal of the writ petition in the following manner. At their joint request, the petition is disposed of as under :

(I) The learned City Civil Court Judge will conclude the hearing on the preliminary issue framed by order dated 29 September 1999 within a period of two weeks from the date the order reaches it as it is informed that all pleadings and evidence is complete and only oral argument is remained. The said period of two weeks will exclude the period of holidays. After decision of the preliminary issue, the learned City Civil Court Judge will take up the suit for consideration on the other issues which are already framed, immediately.

(II) The learned counsel for the Petitioner, on instructions has submitted that in case the decision of the preliminary issue goes against the Petitioner, the Petitioner will not challenge the same but will participate in the adjudication/trial of the other issues and challenge the outcome of the suit, if it is adverse to the Petitioner, if necessary. The statement made is accepted. The Petitioner will act accordingly.

(III) After the preliminary issue is so decided, the learned City Civil Court Judge will conclude the hearing of the suit within period of three months thereafter as the only issue now remains is regarding

compensation to be claimed by the Petitioner.

(III) The learned counsel for the Petitioner and the party in person assures the court that they will cooperate with the learned City Civil Court Judge for early disposal of the suit and will not seek needless adjournment, and will be brief in their oral submissions. This assurance is accepted. It will be open to the learned Judge to fix time limit for oral argument, both for the preliminary issue as well as the hearing of the suit.

3 This stringent time schedule had to be specified in view of the fact that the suit is pending since the year 1999 and that the litigation between the parties needs to be put at rest, at the earliest.

4 All contentions of the parties on merits are kept open.

7 The writ petition is disposed of by consent in above terms.

5 Registry to communicate the order to the City Civil Court, forthwith.

6 The orders/notings which are challenged in the petition will stand modified/set aside in view of the agreement between the parties, which is recorded above.

(N. M. Jamdar, J.)

