IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.621 OF 2015

Anil Meghraj Wadhare … Applicant
Vs.
Abdul Kayum Baroodgar and another … Respondents

Mr. Narendra Walawalkar, Senior Advocate with Mr. Vishal Kanade a/w. Ms Bharati Bheda a/w. Ms Trishla Yelvi i/b. Mr. Gaurav Gokhale for Applicant.
Mr. R. A. Thorat, Senior Advocate a/w. Mr. P. J. Thorat for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : FEBRUARY 25, 2016

P.C. :

Heard Mr. Walawalkar, learned Senior Counsel for applicant and Mr. Thorat, learned Senior Counsel for respondent No.1 at length. On the oral application made by Mr. Walawalkar, respondent No.2 is deleted from the present proceedings as respondent No.1 being the plaintiff is the only contesting respondent. Leave as prayed for is granted. Amendment shall be carried out forthwith. Rule. Mr. Thorat waives service for respondent No.1. At the request and by consent of the parties, Rule is made returnable forthwith and the Application is taken up for final hearing.

2. By this Application under Section 115 of the Code of Civil Procedure, applicant, hereinafter referred to as defendant No.1, has challenged the judgment and order dated 13.03.2015 passed by the learned Judge presiding over Court Room No.4 of the City Civil Court for Greater Mumbai (Borivali Division), Dindoshi, Goregaon, Mumbai in Notice of Motion No.201 of 2014 in S.C. Suit No.1976 of 2013. By that order, the learned trial Judge held that City Civil Court has pecuniary jurisdiction to entertain and try the Suit.

3. After arguing the Application for quite some time, Mr. Thorat, upon taking instructions from the son of the respondent No.1- Mr. Ayaz Baroodgar, submits that by consent of the parties, impugned order may be set aside and the Notice of Motion may be restored to the file of the trial Court for deciding it afresh. He further states that the next date of hearing before the trial Court is 01.03.2016 and the learned trial Judge may be directed to dispose of the Motion as expeditiously as possible and preferably within a period of one week from the date of appearance of the parties.

4. In view thereof, by consent of the parties, Petition is disposed of in the following terms:

a. Impugned order dated 13.03.2015 is set aside and the Notice of Motion No.201 of 2014 is restored to the file of the learned trial Judge;

b. Parties agree that they will appear before the trial Court on 01.03.2016 and for that purpose, no fresh notice be issued to them;

c. The learned trial Judge is requested to decide the Motion as expeditiously as possible, and preferably within one week 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 with no order as to cost.

(R. G. KETKAR, J.)

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