

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 562 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Smt. Padmaja Nilkanth Damle	...	Respondent

WITH
WRIT PETITION NO. 563 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Mr. Suhas Janardan Apte	...	Respondent

WITH
WRIT PETITION NO. 564 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Dr. Ajit Bhaskar Oke	...	Respondent

WITH
WRIT PETITION NO. 565 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Mrs. Meera Madhukar Padhye	...	Respondent

WITH
WRIT PETITION NO. 566 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Mr. Ajit Kumar Krishnaji Modak	...	Respondent

WITH
WRIT PETITION NO. 567 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Mr. Subodh Vasant Sapre	...	Respondent

WITH
WRIT PETITION NO. 568 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Dr. Pradeep Gopal Talwalkar	...	Respondent

WITH
WRIT PETITION NO. 569 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Mrs. Shobha Ashok Ambekar	...	Respondent

WITH
WRIT PETITION NO. 570 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Mr. Shashikant Vaman Kale	...	Respondent

WITH
WRIT PETITION NO. 571 of 2015

Life Insurance Corporation of India	...	Petitioner
<i>Versus</i>		
Dr. Shaila Prakash Bhatwadekar	...	Respondent

Mr. Shrinivas Bhavé a/w. Ms Komal Shah i/b. Bhavé & Co. for Petitioners in all the Petitions.

Mr. Viren Asar i/b. Mr. Ajay Kumar for Respondents in all the Petitions.

CORAM : R. G. KETKAR, J.
DATE : JULY 08, 2016

P.C. :

Heard Mr. Bhavé, learned Counsel for petitioner and Mr. Asar learned Counsel for respondents in all the Petitions at length. Rule. Mr. Asar waives service for respondents. At the request and by consent of the parties, Rule is made returnable forthwith and the Petitions are taken up for final hearing.

2. By these Petitions under Article 227 of the Constitution of India, petitioners in all the Petitions have challenged the judgment and order dated 02.04.2014 passed by the appellate Bench of the Small Causes Court in Revision Applications preferred by the respondents. Respondents preferred Revision Applications challenging the orders dated 31.08.2013 passed by the learned trial Judge in Civil Suits whereby the plaints were rejected under Order VII, Rule 11(d) of the Code of Civil Procedure, 1908 (for short 'C.P.C.') for presentation before the appropriate Court.

3. In the Revision Applications filed by the respondents, petitioners contended that Revision Applications are not maintainable against the order rejecting plaints. The appellate Court unfortunately did not deal with this contention at all.

4. Mr. Bhave invited my attention to Section 2(2) of C.P.C. which defines the expression 'decree'. Section 2(2) of C.P.C. reads thus,

“2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

(1) ...

(2) “decree” means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 144, but shall not include-

(a) any adjudication from which an appeal lies as an appeal from any order, or

(b) any order of dismissal for default.”

5. Perusal of Section 2(2) extracted hereinabove shows that the expression 'decree' is deemed to include rejection of the plaint. In view thereof, Mr. Bhave submitted that Revision Applications were not

maintainable.

6. Mr. Asar accepts this position and submits that respondents will file appeals challenging the orders dated 31.08.2013 passed by the learned trial Judge rejecting the plaint. In view thereof, impugned orders passed in Revision Applications are quashed and set aside only on the ground of maintainability with liberty to respondents to file appeals against the order dated 31.08.2013. It is made clear that I have not examined the merits of the case.

7. Mr. Asar assures that within four weeks from today, respondents will file appeals and serve copy in advance on the other side. In view thereof, the interim arrangement recorded in the order dated 21.04.2015 shall remain in force for a period of six weeks from today. Continuation of this relief shall not be construed as expression of merits either way. All contentions of the parties on merits are expressly kept open and respondents will be at liberty to take out appropriate applications for interim orders. If such applications are filed, the appellate Court will pass appropriate orders in accordance with law.

8. Rule is made absolute in the aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)

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