

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11632 OF 2015

Ved Prakash Ahuja

.. Petitioner

Versus

Roma Prakash Ahuja and others

.. Respondents

Mr. Karl Tamboli a/w Mr. Zeus Dhanbhoora, Ms. Shaheda Madrawala
i/by Bharucha & Partners, for the Petitioner.

Mr. V. B. Naik, Senior Advocate a/w Mr. S. R. Kulkarni, for the
Respondents.

CORAM : R.M. SAVANT, J.

DATE : 6th JANUARY 2016

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 15.09.2015 passed by the Learned Judge of the Small Causes Court, Mumbai, by which order the application Exh.57 filed by the Plaintiff for appointment of the Court Commissioner to record the cross-examination of the Plaintiff on commission in Austria came to be rejected. The rejection is inter-alia on the grounds mentioned in the order. In my view, it is not necessary to go into the merits of the impugned order in view of the consensus that has been reached between the parties. The consensus is to the effect that the Plaintiff would keep himself present on an appointed day so that his cross-examination can be continued and that

the cross-examination to be completed within the time that would be stipulated by this Court. Hence, without going into the merits of the impugned order however in the light of the consensus that has been reached between the parties, the following directions are issued :-

I) The Learned Counsel for the Petitioner states that the Plaintiff Ved Prakash Ahuja would make himself available for cross-examination on 22.02.2016 by keeping himself present in the Trial Court on the said day. Statement accepted. The Plaintiff is accordingly directed to remain present in the Trial Court on 22.02.2016 at 2.45 p.m.

II) The cross-examination of the Plaintiff either to commence on the said day or immediately thereafter on a day fixed by the Trial Court. The cross-examination to be continuous and preferably on a day to day basis subject to the exigencies of the Court. However, since the witness is coming from Austria and since the cross-examination is to be conducted within a time frame, the Trial Court may consider allotting appropriate time for the cross-examination on the day fixed for the same.

III) The cross-examination to be completed latest by 23.03.2016. It is expected of the parties that they would co-operate in the completion of the cross-examination by the said date and would not apply for unnecessary adjournments.

IV) The instant order would govern the aspect of the cross-examination of the Plaintiff.

V) In case of difficulty, liberty to the parties to apply.

VI) With the aforesaid directions, the Writ Petition is disposed of.

[R.M. SAVANT, J]