

ATUL

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 462 OF 2016
WITH
LEAVE PETITION NO. 86 OF 2016
WITH
NOTICE OF MOTION (L) NO. 924 OF 2016

Ms. Soha Vigyat Singh ...Plaintiff
Versus
Sujan Azad Parikh & Ms. Enakshi Sujan Parikh ...Defendants

Ms. Sowmya Srikrishna, *with Ms. Sawmya Brajmohan, i/b*
Kartikeya & Associates, for the Plaintiff.
Mr. S.V. Doijode, *with Mr. P.A. Kabadi & Ms. F.J. Thakkar, i/b*
Doijode Associates, for the Defendants.

CORAM: G.S. PATEL, J
DATED: 9th December 2016

PC:-

1. Ms. Srikrishna for the Plaintiff seeks leave to withdraw the Suit. She also seeks liberty to file a fresh Suit in a Court of competent jurisdiction. The latter prayer is opposed by Mr. Doijode who says that the application is entirely *mala fide* and without disclosing reasons.

2. It is pointed out that on 18th July 2016, ad-interim reliefs were refused. Two preliminary issues were framed. The first of these was whether this Court has jurisdiction to try the suit; and second was the issue of limitation.

3. I am given to understand that the first issue was framed on the basis of want of territorial jurisdiction, and hence the Plaintiff's prayer today for liberty to file a fresh suit in a Court of competent jurisdiction.

4. I do not see how the Defendants are prejudiced by this, especially if all contentions are expressly kept open including as to the maintainability of any subsequent Suit and it is also clarified that any such liberty is, of course, subject to the subsequent Suit being maintainable and permissible in law.

5. In this view of the matter, the Suit is dismissed as withdrawn with liberty to the Plaintiff to file a fresh Suit for similar reliefs in a Court of competent jurisdiction, if permissible in law. All questions on both sides are expressly kept open including specifically as to limitation and maintainability of the subsequent Suit.

6. Refund of court fee, if any, in accordance with the Rules.

7. Mr. Doijode makes a vigorous application for costs. He says that the Suit is frivolous and his client has been considerably inconvenienced and incommoded by this litigation. He may be right. It is also true that today is the 9th of December. He will be entitled

to the costs of Rs. 912/- to be paid by an account payee cheque. Mr. Doijode now waives his demand for costs.

8. The Leave Petition does not survive and is disposed of as infructuous, as also all pending Notices of Motions, if any.

9. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)