

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL REVISION APPLICATION NO.107/2015

Indian Express Newspapers (Mumbai) Pvt. Ltd., through its authorized representative

..Versus..

Smt. Tarabai Aurnrao Potdukhe and others

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 11.1.2016

Heard Shri H.V. Thakur, advocate for the applicant(defendant no.6), Shri N.A. Padhye, advocate for the non-applicant no.1(plaintiff) and Shri H.A. Deshpande, advocate for the non-applicants 2, 3 and 4 (defendants 5, 6(a) and 9).

The non-applicant no.1(plaintiff) has filed civil suit praying for decree for damages on the ground of alleged defamation. According to the applicant - the defendant no.6, as per the Scheme of Arrangement sanctioned by this Court in Company Petition No.548/2008, the non-applicant no.3 (defendant no.6[a]) has to deal with the legal proceedings after the effective date i.e. 5th January, 2009. The learned advocate has relied on Clause 6 of the Scheme of Arrangement which reads as follows:

"6. LEGAL PROCEEDINGS

6.1 All legal or other proceedings of whatsoever nature by or against the Demerged Undertaking pending and/or arising on or after the Appointed Date and relating to the Demerged Undertaking or its

properties, assets, debts, liabilities, duties and obligations, shall be continued and/or enforced until the Effective Date as desired by TIEL and as and from the Effective Date shall be continued and enforced by or against TIEL in the same manner and to the same extent as would or might have been continued and enforced by or against IENML. On and from the Effective Date, TIEL shall and may, if required, initiate any legal proceedings in its name in relation to the Demerged Undertaking in the same manner and to the same extent as would or might have been initiated by IENML.”

The applicant filed an application under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure praying that its name be deleted from the array of defendants in view of the above actual position.

The learned trial Judge has recorded that the application filed by the applicant cannot be decided *de hors* the merits of the matter. The civil suit has progressed substantially and as informed by the learned advocates, the evidence of some of the parties has already been recorded.

I do not find any patent irregularity, illegality or error of jurisdiction which necessitates the interference by this Court in the revisional jurisdiction. The civil revision application is dismissed. In the circumstances, the parties to bear their own costs.

CIVIL APPLICATION NO.38/2015

In view of disposal of civil revision, the application praying for interim order is rendered infructuous and is disposed of accordingly.

JUDGE

Tambaskar.