

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 2317 OF 2016

M/s. HMG Engineering Limited

...Petitioner

Versus

Mr. Prashant C. Pal And Anr.

...Respondents

....

Mr.Vikas S. Singh i/b. Lambay & Co. for the Petitioner.

Mr.Rajiv Narula i/b. Jhangiani Narula & Associates, for
Respondent No.1.

....

CORAM : R. G. KETKAR, J.

DATE : 09th MARCH, 2017

P.C.

1. Heard Mr.Vikas Singh, learned Counsel for the petitioner and Mr.Rajiv Narula, learned Counsel for respondent No.1, at length.

2. Leave to delete respondent No.2 is granted as the same is not party in the trial Court and is unnecessarily impleaded. Mr.Singh also seeks leave to challenge the order dated 18.1.2017 passed by the learned trial Judge in Notice of Motion No.3140/2016. Leave as prayed for is granted. Amendment shall be carried out within one week from today.

3. Rule. Mr. Narula waives service on behalf of respondent No.1. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

4. This Petition takes exception to the order dated 12.1.2016 passed by the learned trial Judge by which the learned trial Judge passed 'no-cross' order against the petitioner, hereinafter referred to as the 'defendant'. The defendant has also challenged the judgment and order dated 18.1.2017 passed by the learned trial Judge in Notice of Motion No.3140 / 2016 in Suit No.8686 / 2000 in H.C. Suit No.3202 / 2000. By that order, the learned trial Judge rejected the Motion taken out by the defendant for reviewing the order dated 12.1.2016.

5. Mr. Narula fairly submitted that by consent of the respondent/plaintiff the impugned orders may be set aside. He, however, submitted that the defendant may be directed to file list of documents as also list of witness/s within two weeks from today. Learned Counsel for the parties assure that they

will extend full cooperation for recording of the evidence.

6. In view thereof, by consent of the parties, order dated 12.1.2016 as also the order dated 18.1.2017 in Notice of Motion No.3140/2016 are quashed and set aside. The learned trial Judge will permit the defendant to cross-examine the witness/s of the plaintiff. The defendant shall submit the list of documents as also list of witness/s within two weeks from today in the trial Court. The learned Counsel appearing for the parties assure that the parties will extend full cooperation for early recording of the evidence. Assurance given by learned Counsel appearing for the parties is recorded. Rule is made absolute in aforesaid terms with no order as to costs.

(R.G. Ketkar, J.)