

Mr. Asish Singh i/b. DSK Legal for Petitioner.
Mr. Kamlesh P. Mali for Respondent.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 27, 2017

Not on Board. At the joint request of learned Counsel appearing for the parties, taken up for admission.

2. The matter was heard at length on 25.01.2017 and was adjourned till today for passing order. However, inadvertently office did not list the Petition for admission today. Rule. Mr. Mali, learned Counsel for respondent waives service. At the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

3. This Petition takes exception to the judgment and order dated 29.07.2016 passed by the learned Civil Judge, Senior Division, Daman below exhibit-48 in Special Civil Suit No.8 of 2012. By that order, the learned trial Judge allowed the application made by the respondent, hereinafter referred to as 'plaintiff', for production of Compact Disk (CD) to decide the Suit on merits.

4. In support of this Petition, Mr. Singh, learned Counsel for petitioner submitted that the learned trial Judge did not give any reasons

for allowing the application. He has taken me through the impugned order and in particular paragraphs 8 and 9.

5. Mr. Mali supported the impugned order by inviting my attention to paragraphs 2 to 7 and submitted that for the reasons stated therein, the learned trial Judge has rightly allowed the application. After arguing the Petition for quite some time, and upon taking instructions from the instructing Advocate as also from the respondent-plaintiff, Mr. Mali consents for setting aside the impugned order with direction to the learned trial Judge to decide the application afresh. He submits that all contentions of the parties in that regard may be kept open.

6. In view thereof, by consent of the parties, Petition is disposed of in the following terms:

- a. Impugned order dated 29.07.2016 is set aside;
- c. All contentions of the parties in that regard are expressly kept open;
- b. Application exhibit-48 is restored to the file of the trial Court for deciding it afresh;
- d. The learned trial Judge will decide the application by giving reasons in support thereof;
- e. Rule is made absolute accordingly with no order as to costs.

7. All the parties, including the trial Court, to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)