

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.296 OF 2016

Badve Engineering Limited through
Authorized Representative Bhushan Shingote ... Petitioner
Vs.
Ram Dyanu Patil and another ... Respondents

Mr. Chetan Alai for Petitioner.

Mr. B. G. Tangsali for Respondents.

CORAM : R. G. KETKAR, J.

DATE : FEBRUARY 09, 2017

P.C. :

Heard Mr. Alai, learned Counsel for petitioner and Mr. Tangsali, learned Counsel for respondents at length. Rule. Mr. Tangsali waives service for respondents. Having regard to the narrow controversy raised in the 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.

2. By this Petition under Article 227 of the Constitution of India, original plaintiff has challenged the Judgment and order dated 6.10.2015 passed by the learned Extra Joint Civil Judge, Senior Division, Pune below Exhibit-22 in Special Civil Suit No.970 of 2015. By that order, the learned trial Judge allowed the application made by the respondents, hereinafter referred to as 'defendants' for directing the petitioners, hereinafter referred to as 'plaintiff', to produce and supply copy of the

documents, referred in paragraphs 1(a) to (d).

3. In support of this petition, Mr. Alai submitted that the defendants have sought direction against the plaintiff to produce following documents.

- (a) Mail backup of e-mail ID acc-scpl3@badvegroun.com which was accessed by the defendant in the course of his employment.
- (b) Audit file submitted by plaintiff company for the period 2012-13, 2013-14 and 2014-15 of the Ranjangaon Unit 1701 and 1303;
- (c) Baklance sheets with Audit Report of the plaintiff company for the period 2012-13, 2013-14 and 2014 -15 of Ranjangaon Unit 1701 and 1303.
- (d) Bank Statement of account of the plaintiff company with I.C.I.CI. Bank of Unit No.1701 and 1303 from the period January 2012 to March 2015.

4. In the entire application, the defendants have not disclosed as to how documents (a) to (d) of paragraph 1 are relevant for deciding the controversy raised in the suit. He further submitted that the plaintiff has not relied on those documents. The learned trial Judge has also not recorded any finding as to whether the documents which the defendants want the plaintiff to produce are relevant for deciding the controversy or not.

5. Mr. Tangsali could not support the impugned order. He submits that as the application exhibit-22 does not disclose relevancy of documents, he seeks permission to withdraw application exhibit-22 with liberty to file fresh application giving the necessary details along with the affidavit in support of that application. He submitted that if such application is filed, all contentions of the petitioner, including maintainability of such application, may be kept open.

6. In view thereof, on the motion made by Mr. Tangsali, application exhibit-22 filed by the respondents is allowed to be withdrawn with liberty to file fresh application giving all the necessary details along with the affidavit in support of that application. Impugned order dated 06.10.2015, therefore, stands dissolved. Grant of liberty shall not be construed as an expression of merits either way. All contentions of the petitioner, including that of maintainability of application, are expressly kept open. Rule is made absolute in the aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)

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