

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5057 OF 2017

Vijay Jagshi Chhedda ..Petitioner

Vs.

Vishnu Nama Gaikwad ..Respondent

Mr. Prasad Dani, Senior Advocate a/w Mr. Jaydeep Raut, Mr. Vinayak Vengurlekar, Mr. Aniket Katre, Ms. Nitisha Lad i/b M/s. Nair & Vengurlekar and Co, for the Petitioner.

Mr. Tejesh Dande a/w Bharat Gadhavi and Vishal Navale i/b M/s. Tejesh Dande and Associates, for the Respondent.

CORAM :- **B.P.COLABAWALLA, J.**
DATE :- **DECEMBER 6, 2018.**

P. C.:

This Writ Petition has been filed seeking to challenge the three orders passed by the Trial Court on 18th June, 2016 below Exhibit-50, Exhibit-53 and Exhibit-41 in Special Civil Suit No. 13 of 2013. Exhibit-50 was an application filed by the Petitioner for taking action against the Respondent under Order 39 Rule 2(A) for allegedly flouting the interim orders passed by the Trial Court. Exhibit-53 was an application for demolition of construction that was erected after the status-quo. Exhibit-41 was

an application filed by the Respondent herein (the Defendant before the Trial Court) to accept his Written Statement.

2 The Trial Court passed an order in Exhibit-50 stating that evidence would be required for adjudication of this application, and therefore, ordered that Exhibit-50 be heard along with the Suit.

3 As far as Exhibit-53 is concerned, the Trial Court was of the view that the relief sought in this application was virtually a final relief which was sought in the Suit and therefore could not be granted until the Suit was heard. In these circumstances, Exhibit-50 was rejected by the Trial Court.

4 As far as Exhibit-41 (filed by the Defendant) is concerned, the same was allowed and the Written Statement of the Defendant was taken on record subject to the costs of Rs. 3,000/- that was to be paid to the Bar Association, Panvel.

5 Mr. Dani, the learned Senior Counsel appearing on behalf of the Petitioner submitted that instead of adjudicating all these issues in this Writ Petition, his client would be satisfied if the Writ Petition can be disposed of with a direction to the Trial Court

to conduct the trial of the Suit in a time bound manner. The learned counsel appearing on behalf of the Respondent was also agreeable to this course of action.

6 Considering the submissions made by the respective counsel, and considering that the Suit has been pending since the year 2013, the Trial Court is requested to hear the parties and decide the Suit as expeditiously as possible and in any event within a outer limit of a period of one year from today. Both parties have agreed that neither of them shall ask for any unnecessary adjournments before the Trial Court.

7 The Writ Petition is disposed of in the aforesaid terms. No order as to costs.

8 I clarify that I have not opined on the merits of any of the applications in which the impugned orders have been passed and the Trial Court will decide the pending applications, if any, on its own merits and in accordance with law.

(B. P. COLABAWALLA, J.)