

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 6772 OF 2017

Ageratum Trading Company Private
Limited

...Petitioner

Versus

J.B. Advani And Company Private
Limited

...Respondent

WITH

Writ Petition NO. 6773 OF 2017

Acrolinium Trading Company Private
Limited

...Petitioner

Versus

J.B. Advani And Company Private
Limited

...Respondent

....

Mr. N.H. Seervai, Senior Advocate a/w. S.V. Doijode a/w. Ms. Taruna Nagpal i/b. Doijode Asso. for the Petitioners.

Mr. J.P. Sen, Senior Advocate i/b. Dastur Kalambi & Asso. for the Respondents.

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CORAM : R. G. KETKAR, J.

DATE : 12th JUNE, 2018

P.C.

1. Heard Mr.N.H. Seervai, learned Senior Counsel for the petitioners and Mr.J.P. Sen, learned Senior Counsel for the respondents in both the Petitions, at length.

2. Both these Petitions are directed against the order dated

16.7.2016 passed by the learned trial Judge in T.E. Suit No.40/2016 and T.E. Suit No.41/2016. Mr. Seervai fairly stated that the petitioner had filed application dated 18.4.2017 before the trial Court praying *inter alia* to take note of the fact that defendant No.2 is not duly served with the proceedings. He, therefore, submits that the trial Court may be directed to treat the application dated 18.4.2017 as application for recalling the order dated 16.7.2016 passed by the learned trial Judge in two suits. He submits that both the parties may be given liberty to produce documents in the trial Court within one week from today with advance copy to other side and all contentions of the parties may be kept open. He further submits that as the next date of hearing before the trial Court is 26.6.2018, the learned trial Judge may be directed to decide the applications dated 18.4.2017 latest by 22.6.2018. Mr. Sen has no objection in adopting this course.

3. In view thereof, the Petitions are disposed of in the following terms :

[i] The learned trial Judge will treat the applications dated 18.4.2017 as applications for recalling orders dated 16.7.2016 passed in both the suits.

[ii] The parties are at liberty to produce additional documents and

shall serve copies on other side within one week from today.

- [iii] All contentions of the parties on merits are expressly kept open.
- [iv] The learned trial Judge is requested to decide the applications dated 18.4.2017 as expeditiously as possible and latest by 22.6.2018.
- [v] In case the applications are decided against the petitioner, liberty is reserved to the petitioner to challenge the orders dated 16.7.2016 and the orders that may be passed on the applications dated 18.4.2017.
- [vi] After deciding the applications, the learned trial Judge will not proceed with the suit for four weeks from the date of passing of the order so as to enable either parties to challenge said orders.
- [vii] Parties are at liberty to apply for expediting disposal of the suits before the trial Court.
- [viii] Order accordingly.

(R. G. KETKAR, J.)