

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 10329 OF 2016

Shri Sharad Sakharam Pingale

...Petitioner

Versus

M/s. Jonas Holdings Pvt. Ltd.

And Ors.

...Respondents

....

Mr. Abhishek Pungliya i/b. Neel Pungliya, Advocate for the Petitioner.

Mr. G.S. Godbole, Senior Advocate a/w. Shivani Samel, for Respondent No.1.

....

CORAM : R. G. KETKAR, J.

DATE : 10th AUGUST, 2018

P.C.

1. Heard Mr. Abhishek Pungliya, learned counsel for the petitioner and Mr. G.S. Godbole, learned Senior Counsel for respondent No.1, at length.

2. Perused the earlier orders passed by this Court from time to time and in particular the order dated 8.8.2018. In pursuance of that order, Mr. Godbole has tendered the statement made on behalf of respondent No.1 dated 10.8.2018. Said statement is taken on record and marked "A" for identification. The statement made on behalf of respondent No.1 is accepted in the form of undertaking to this Court. Mr. Godbole states that Mr. Ashok Yadav, the Director of respondent is present in the Court today. He has tendered a photo-copy of his Aadhaar Card, which is taken on record and marked 'B' for identification.

3. Mr. Pungliya has no objection for disposing of the Petition in terms of the said statement.

4. There is dispute between the parties as regards shutting down of business from 25.9.2012 to 29.12.2014. It is the case of respondent No.1 that because of the acts and omissions of the petitioner contrary to the agreements executed between the parties, shutting down of business is attributable to the petitioner. As against this, it is the case of the petitioner that respondent No.1 had arranged Chillar Party on 26.8.2012 where liquor was served to the minor children and that the Commissioner of Police issued notice to the petitioner on 5.9.2012. The petitioner has placed on record criminal proceedings pertaining to a complaint lodged under Sections 420, 467, 468, 471 read with Section 34 Indian Penal Code, 1860.

5. In view thereof, by consent of the parties, the impugned order passed by the learned District Judge is set aside and is substituted in terms of the statement made by respondent No.1. It is expressly made clear that this statement is without prejudice to the rights and contentions of both parties and in case respondent No.1 does not deposit the amount as per the statement, the petitioner would be at liberty to take out appropriate proceedings for striking out the defence of the first respondent. The parties will be at liberty to adduce evidence before the trial Court to

establish shutting down of business from 25.9.2012 to 29.12.2014 on the ground of the alleged acts and omissions of the petitioner or of respondent No.1 contrary to the agreements executed between the parties was attributable either to the petitioner or to the first respondent. The learned trial Judge will consider the evidence and will pass appropriate order in relation to the amount deposited by the first respondent while disposing of the suit finally. All contentions of the parties on issues on merits are expressly kept open. Petition is disposed of in aforesaid terms with no order as to costs. Order accordingly.

Pradipkumar
Prakashrao
Deshmane
Digitally signed
by Pradipkumar
Prakashrao
Deshmane
Date: 2018.08.10
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(R. G. KETKAR, J.)

Deshmane (PS)