

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 13592 OF 2017

Ayyub Vali Bux And Ors.

...Petitioners

Versus

Tossa Resturant and Stores

...Respondent

....

Mr. Khan Javed Akhtar, Advocate for the Petitioners.

Mr. Ranjit A. Thorat, Senior Advocate i/b. Yogendra M. Kanchan,
Advocate for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 25th JULY, 2018

P.C.

1. Heard Mr.Khan Javed Akhtar, learned counsel for the petitioners and Mr.Ranjit Thorat, learned Senior Counsel for the respondent, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as the 'plaintiffs', have challenged the order dated 1.11.2017 below Exhibit-10 and the order dated 1.11.2017 below Exhibit-11 passed by the learned Judge, Court Room No.17 of the Small Causes Court at Mumbai in R.A.E. Suit No.522/2017.

3. Rule. Mr. Kanchan waives service on behalf of the respondent. Having regard to the narrow controversy raised in this 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.

4. By order dated 1.11.2017 below Exhibit-10, the learned trial Judge set aside the order dated 24.7.2017. By order dated 1.11.2017 below Exhibit-11, the learned trial Judge condoned the delay of 98 days in filing the written statement and took the duly affirmed written statement on record.

5. As the parties have tendered additional replies in this Court, they agreed for setting aside the impugned orders thereby restoring the applications Exhibits-10 & 11 before the trial Court. They submitted that the parties may be given liberty to file additional replies before the trial Court.

6. In view thereof, by consent of parties, the impugned orders dated 1.11.2017 below Exhibits-10 & 11 are set aside. Applications Exhibits-10 & 11 are restored to the file of the trial Court for deciding it afresh. Parties are at liberty to file additional replies in those applications. Let the replies be filed within two weeks from today and copies thereof shall be served on the other side in advance. The learned

trial Judge is requested to dispose of the applications Exhibit-10 & 11 within four weeks from today. All contentions of the parties on merits are expressly kept open. Rule is made absolute in aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)

Pradipkumar
Prakashrao
Deshmane

Digitally signed
by Pradipkumar
Prakashrao
Deshmane
Date: 2018.07.27
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