

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13935 OF 2018

Ritika Private Limited

...Petitioner

vs.

Anisha Art Jewellers Private Limited and Ors.

...Respondents

Mr. Charles D'Souza a/w. Ms. Aneesa Cheema I/b. Verus, for the
Petitioner

Mr. Prateek Sharma, for the Respondents.

CORAM : M. S. SONAK, J.

DATE : DECEMBER 14, 2018

P.C.:

. Heard learned counsel for the parties.

2. Mr. Prateek Sharma, learned counsel for the Respondents raised a preliminary objection to the maintainability of this Petition by pointing out that the Petitioner has alternate and efficacious remedy of instituting the Revision Petition under Section 42(4) under Presidency Small Cause Courts Act, 1882. To challenge the impugned order. He relies on ruling of this Court in ***Coloba Central Co-operative Consumer Wholesale and Retail Stores Ltd. @ Sahakar Bhandar vs. Kusumben Kantilal Shah and Ors., 2003 (4) All M.R. 304.***

3. Mr. D'Souza, however submits that since this is gross

case where the impugned order travels way beyond the predicates of Order 15-A, Rule 1 of C.P.C, writ jurisdiction may be exercised.

4. Without prejudice to the aforesaid submissions, Mr. D'Souza submits that the Petitioner, without prejudice to its right and contentions raised in the suit pending before the Dindoshi Court as well as the contention to challenge the impugned order, he is ready and willing to deposit before the trial Court the arrears of licence fees in respect of the suit premises from July, 2017 to December, 2018 within a period of four weeks from today. He requests that on the basis of this deposit, the operation of the impugned order may be stayed for a limited period so that the Petitioner can avail the remedy of Revision under Section 42(4) of the said Act.

5. Taking into consideration that the Petitioner has a alternate and efficacious remedy available to challenge the impugned order and considering the legal position explained in cases of **Colaba Central** (supra) and in the case of **Abdul Keder Mahmud Dinath vs. Mahindra Satyen Purohit and Anr., Writ Petition No. 8068 of 2017**, there is no necessity to entertain the present Petition.

6. This Petition is therefore dismissed with liberty to the

Petitioner to avail the alternate remedy to institute the Revision Petition under Section 42(4) of the said Act. However, accepting the statement made on behalf of the Petitioner that the Petitioner shall deposit within four weeks from today the arrears of licence fees as aforesaid before the trial Court, the operation of the impugned order is stayed for a period of six weeks from today.

7. It is made clear that the Revisional Court, in case any Revision is indeed instituted, will be at liberty to decide not only the Revision Petition but also the application for interim relief therein on its own merits and in accordance with law without in any manner being influenced by the limited interim relief today granted.

8. It is made clear that this limited interim relief is only to offer some breathing space to the Petitioner to institute the Revision Petition and the same is not after consideration of the rival contention or the merits or demerits of the matter. All rights and contentions of the parties are therefore, left open.

9. This Petition is therefore disposed of in the aforesaid terms.

(M. S. SONAK, J.)