

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO.398 OF 1986

Sambhavtirth Co-op. Hsg. Soc. LimitedPlaintiff

Vs.

Vishwamangal Hsg. Co. Pvt. Ltd. & Ors.Defendants

Mr. Ankit Rajput I/b. Mr. Rutvij Bhatt for plaintiff.

Mr. Vijayprakash Yadav for defendant nos.2A to 2F.

CORAM : K.R.SHRIRAM, J.

DATE : 5th SEPTEMBER 2018

P.C.:

1 Neither plaintiff nor advocates have shown any seriousness in prosecuting this matter with diligence. This is an expedited suit and board remark shows issues were framed on 20th March 1998.

2 On 28th July 2017 the following order came to be passed :

1. Mr.Tushar Bhavsar for plaintiffs states that he has recently been instructed in the matter since the earlier advocate has expired. Mr.Bhavsar requests some time to enable him to take full and complete instructions in the matter. Mr.Bhavsar also states that he has applied for certified copy of the record & proceedings on 24.7.2017. If certified copy is going to take time, registry to provide photo copies and in any event, within 4 weeks from today.

2. Stand over to 1.9.2017 for directions.

3 Strangely when the assignment changed on 1st September 2017, plaintiff once again made a statement that they recently filed Vakalatnama. The order dated 1st September 2017 reads as under :

1. Heard the learned counsel for the parties.

2. Advocate for the plaintiff submits that recently they filed Vakalatnama on behalf of plaintiff. Hence, he requires some time to go through the papers and take appropriate steps if necessary.

3. On his request, matter is adjourned by four weeks.

4 It is quite clear that plaintiff's advocates misled the Court because the assignment changed by stating that they recently filed Vakalatnama and required time to go through the papers and take appropriate steps if necessary when they have said the same thing to the Court on 28th July 2017 when the assignment was with another Judge. Mr. Rajput, counsel for plaintiff states that subsequently plaintiff has received copies of all documents from the registry. Mr. Rajput states that he does not remember the time when he got the documents but quite some time ago.

5 On 30th January 2018 the following order came to be passed :

1. List the matter for admission and denial of documents on 28th February 2018.

2. I am informed that issues are already settled. Parties will check whether the Affidavit of Evidence, Affidavit of Documents and a Compilation is on file. It is pointed out that the Suit is already an expedited Suit.

6 Even thereafter plaintiff has done nothing. Therefore, it is quite obvious that plaintiff is not interested in prosecuting the suit.

7 Suit dismissed.

Gauri
Amit
Gaekwad

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by Gauri Amit
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(K.R. SHRIRAM, J.)