

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO.3795 OF 2019

AJIT HASTIMAL GANDHI
VERSUS
MAHALAXMI WARE HOUSING THROUGH MANAGING PARTNER AND
AUTHORIZED SITNATORY AND OTHERS

...
Advocate for Petitioners : Mr. Bhandari Anand P.
Advocate for Respondent No.1 :Mr. D.N. Bankar
Advocate for Respondent No.3 :Mr. Sonawane M.R.

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CORAM : **RAVINDRA V. GHUGE, J.**

Date: August 8th, 2019

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PER COURT :-

1 This matter was heard at length on 7.8.2019.

2 Considering the issue before the Trial court and the stakes involved, I called upon the learned counsel for the petitioner to submit, as to whether he would be agreeable to deposit costs of Rs.1 lakh each in favour of the two respondents, i.e. respondent No.1 and respondent No.3, who have caused their appearance in this matter and have contested the proceeding.

3 The learned advocate has taken instructions from the petitioner, present in the Court and has agreed for the same.

4 The learned advocates for respondents No.1 and 3 sought time till today to take instructions. Today, the said respondents are present in the Court. It is submitted that, both are willing to accept the said amount, as costs and the application for amendment can be allowed, subject to the petitioner, being precluded from leading further evidence. They have also

graciously submitted, on instructions, that Rs.10,000/- each can be donated for a public cause.

4 In view of the above, this petition is allowed.

5 The impugned order dated 11.2.2019 is quashed and set aside and application Exhibit 132, filed by the petitioner - herein in Special Civil Suit dated 3.7.2011, is allowed subject to the following directions:-

- a) The petitioner has agreed that, he would not lead any evidence pursuant to the amendment.
- b) The amendment shall be carried out on or before 14.8.2019.
- c) Since the amendment can be conveniently carried out in red ink, there is no requirement for a detailed typed amended copy of the plaint before the Trial Court.
- d) The petitioner shall deposit the entire amount of Rs.2 lakhs in this Court on or before 19.8.2019. The registry shall transmit an amount of Rs.10,000/- to the Dean, Medical college & Hospital, Aurangabad for the treatment of poor patients below the poverty line and Rs.10,000/- to the Government Cancer Hospital, Aurangabad.
- e) Respondent No.1, through its authorized signatory and respondent No.3, who have caused appearance in this matter, shall be entitled to withdraw an amount of Rs.90,000/- each from this Court.
- f) All the litigating sides shall advance their oral submissions and if required would enter written notes of submissions, on or before 31.8.2019 and thereafter, the trial Court shall close the proceeding for delivering its Judgment.

- g) The defendants, if so advised, shall file an additional written statement only to the extent of the amended portion of the plaint on or before 19.8.2019, since they are aware of the amendment which was proposed before the Trial Court.
- h) All the contentions of the litigating sides, in view of the pleadings and the oral and documentary evidence, are kept open.
- i) The trial Court would deliver its Judgment on 30.9.2019.

6 All the parties shall act on the print out copy of this order, obtained from the official website of the Bombay High Court.

(RAVINDRA V. GHUGE, J)