

**THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

906 WRIT PETITION NO.10022 OF 2018

SRI VENK IMPEX THROUGH PROPRIETOR PREMLATHA P
KESHAVAMURTY NAIDU GPA PULLIAHGARI ..PETITIONER

VERSUS

LATUR SOLVENT EXTRACTIONS PVT LTD THROUGH ITS
MANAGING DIRECTOR AND OTHERS ..RESPONDENTS

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Mr. Sharad V. Natu, Advocate for the Petitioner.

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CORAM : S. V. GANGAPURWALA, J.

DATED : 03rd JANUARY, 2019.

PER COURT:-

1. Mr. Natu, learned counsel for the petitioner submits that the Advocate of the petitioner could not remain present at the time of hearing of the application filed by the petitioner for deleting him from the array of defendants. The learned counsel submits that no privity of contract exist between petitioner and the original plaintiff. In absence of privity of contract, the plaintiff cannot seek any relief from the petitioner. According to the learned counsel only because some pleadings are made and prayer is made that would not be sufficient to direct trial against the present petitioner. The review was also filed. Opportunity ought to have been given by the Court to the petitioner to put forth his stand. The same is also not accorded to the petitioner.

2. The premise on which the argument of the petitioner are based is absence of privity of contract, so as to fasten liability upon the petitioner. In the pleadings, some averments are made against the petitioner. Relief is also claimed against the petitioner. The plaintiff is seeking relief against all the defendants for payment of amount. The trial has yet to commence.

3. In light of that, it would not be appropriate to grant the application of the petitioner. All these arguments of the petitioner can be considered at the time of the final trial. The Court naturally will have to decide the proceedings on the basis of the evidence adduced, the pleadings and the contentions of the parties. The Court while rejecting application has not concluded upon any aspect of the matter.

4. It will be open to the petitioner to raise all these grounds at the time of final trial.

5. In light of the above, writ petition is disposed of. No costs.

(S. V. GANGAPURWALA)
JUDGE