Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.124 OF 2019

WITH

CIVIL APPLICATION NO.123 OF 2019

Aditi Chandel and another] Petitioners
Vs.
Dinesh Kumar Chandel] Respondent

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Mr. Abhijit D. Sarwate i/b Ajinkya M. Udane, for the Petitioner.
Mr. B.M. Patwardhan i/b Bhushan A. Kulkarni, for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 17th JANUARY, 2019.

P.C.

Heard Mr. Sarwate, learned Counsel for the petitioner and Mr. Patwardhan, learned Counsel for the respondent at length.

2. Leave to amend so as to challenge the order dated 29th December, 2018 passed by the learned Judge Family Court-4, Pune in P.A. No.1414 of 2015 is granted. Amendment shall be carried out forthwith.

3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the orders;

[1] dated 27th December, 2018 and in particular clause (1) below Exhibit 324.

[2] dated 29th December, 2018 below Exhibit 394 passed by the learned trial Judge.

4. By order dated 27th December, 2018 below Exhibit 324, the learned trial Judge has called income tax returns and books of accounts of Advocate Shri Abhijit Sarwate for the financial years 2016-2017 and 2017-2018 from the Income Tax Department, Pune. By order dated 29th December, 2018 below Exhibit 394, the learned trial Judge rejected the application filed by the petitioner for keeping in abeyance execution, implementation and operation of the orders passed below Exhibits 324 and 326 till due process of law is completed.

5. After the Petition was heard at length, the parties have arrived at consensus for disposal of the Petition in the following terms;

[1] petitioner No.2 will file affidavit stating therein;

(a) payments made by him to petitioner No.1 and the heading under which the payment was made as also mode of payment. Petitioner No.2 shall also specify how that is shown in his books of account.

(b) whether after filing of the original income tax returns, petitioner No.2 has filed revised returns in relation to the entries made in respect of petitioner No.1?

(c) whether entries shown in the original income tax returns in the name of petitioner No.1 are thereafter shown in the names of some other persons?

(d) petitioner No.2 shall annex revised entries in the books of accounts whereunder amount was transmitted from the account of petitioner No.2 in the account of petitioner No.1.

[2] the learned trial Judge will keep the documents received from the Income Tax Department in the sealed envelope and certified copies thereof shall not be furnished to anyone.

[3] the learned trial Judge will compare affidavit of petitioner No.2 and the enclosures along with documents received from the Income Tax Department and will thereafter proceed to decide application at Exhibit 324 on its own merits.

(4) depending upon the outcome of application Exhibit 324, namely Criminal Misc. Application No.1 of 2019, the trial Court will pass the appropriate order in relation to the documents received from the Income Tax Department. However, these documents shall be kept in sealed envelope and certified copies thereof shall not be furnished to anyone.

6. In view of the aforesaid discussion, Writ Petition is disposed of in the above terms. In view of disposal of Writ Petition, Civil Application No.123 of 2019 does not survive and as such is disposed of. Petitioner No.1 is at liberty to take out appropriate application for the reliefs claimed in this application before the trial Court. All contentions of the parties are expressly kept open. Order accordingly.

[R.G. KETKAR, J.]