

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3089 OF 2019

Vashdev J. Daryanani and anr. .. Petitioners
vs.
Rakhee Sachdev and ors. .. Respondents
WITH
WRIT PETITION (ST) NO. 5670 OF 2019
ISC Projects Pvt. Ltd. and ors. .. Petitioners
vs.
Rakhee Sachdev and ors. .. Respondents

Mr. Girish Godbole a/w. Mr. Akash Petkar and Mr. Rahul Soman for the Petitioners in both petitions.
Mr. Amjith M. Anandhan a/w. Mr. A.K. Valappil and Nikhil Mallelwar I/b Triyama Legal for Respondent Nos.1 to 9 in both petitions.

CORAM : M. S. SONAK, J.
DATE : 9 APRIL 2019.

ORAL JUDGMENT :-

1] Writ Petition (st) No. 5670 of 2019 is not on board. However, at the request of learned counsel for the parties, same is taken on board and disposed of along with the present petition, i.e. Writ Petition No. 3089 of 2019.

2] Rule in both the petitions. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith in each of the petition.

3] In both these petitions, the challenge is mainly to the impugned order dated 23rd January 2019 as well as to the order dated 7th February 2019 by which the review petition against the order dated 23rd January 2019 came to be dismissed by the learned Trial Judge.

4] These petitions have been instituted by the defendants in Special Civil Suit No. 867 of 2018. The record indicates that these defendants /their advocates were not allowed by the learned Trial Judge to argue/make submissions on the application for interim relief applied for by the plaintiffs in the suit on the ground that the interim relief was applied for only against defendant Nos.1 and 2 in the suit, i.e. builders and developers.

5] Obviously, the approach on the part of learned Trial Judge was not correct. In the first place, though the relief may have been directly applied for only against defendant Nos.1 and 2, the remaining defendants were obviously interested in seeing that such relief is declined as, this relief, would affect their interest as well. Perhaps, it is for this

reason that the other defendants were impleaded as parties to the suit in addition to defendant Nos.1 and 2.

6] Accordingly, learned Trial Judge was not right in depriving the other defendants opportunity of making their submissions/arguments through their advocates in opposition to the application for interim reliefs.

7] For the aforesaid reasons, the impugned orders are set aside. Learned Trial Judge is, however, directed to dispose of the application for interim reliefs made by the original plaintiffs, after hearing all the defendants, as expeditiously as possible and in any case within a period of two months from today. Learned counsel for the petitioners assures this Court that they will not seek any unnecessary adjournments or otherwise protract the proceedings in the application seeking interim reliefs against the other defendants.

8] Learned counsel for the parties state that there may be other defendants against whom similar orders may have been passed. Therefore, in order to avoid further delay in the

decision of the interim application, it is made clear that notwithstanding such orders, and in the context of the view now taken in this order, all the defendants who wish to be heard, will have to be heard in the application for interim reliefs. Such clarification is, in fact, in the interest of plaintiffs as otherwise, even those defendants will institute petitions in this Court and further delay the proceedings before the learned Trial Judge.

9] Rule, in both the petitions, is made absolute in the aforesaid terms. There shall be no order as to costs.

10] All concerned to act upon an authenticated copy of this order.

(M. S. SONAK, J.)