

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO. 8961 OF 2019

Mr. Milind V. Chindarkar .. Petitioner
vs.
Dr. Jaykumar J. Shirsekar and ors. .. Respondents

Mr. Uday Warunjikar I/b Mr. Vinay M. Bhate for the
Petitioner.
Mr. P.V. Satam for Respondent Nos.1 to 3.

CORAM : M. S. SONAK, J.
DATE : 27 MARCH 2019.

P.C. :-

1] Heard Mr. Uday Warunjikar, learned counsel for the
petitioner and Mr. P.V. Satam, learned counsel for the
respondent Nos.1 to 3.

2] Mr. Satam files a reply on behalf of respondent Nos. 1
to 3 and the same is taken on record.

3] The challenge in this petition is to the order dated 20th
March 2019 by which the learned Trial Judge had declined
the ad-interim *ex-parte* relief to the petitioner.

4] On 22nd March 2019 , this Court, made the following
order:

“Not on board. Upon mentioning, the matter is taken on production board.

2 Heard Mr. Bhate, learned counsel for the petitioner. Issue notice to the respondents, returnable on March 27, 2019.

3 In addition to the service through usual mode, the petitioner is permitted to effect private service upon the respondents and file affidavit of service.

4. Learned counsel points out that the electricity connection to the petitioner’s house has been disconnected otherwise than the due process of law. He submits that the petitioner’s children are answering examination and, therefore, urgent relief is necessary. Accordingly, respondent No.4 is directed to forthwith restore the electricity supply to the suit premises.

5. All concerned to act on the basis of an authenticated copy of the order duly authenticated by the Personal Assistant.”

5] The record indicates that though the ad-interim *ex-parte* relief was declined by the learned Trial Judge, the Chamber Summons seeking interim reliefs is posted for hearing on 5th April 2019. Since this is the position, there is no point in keeping this petition pending. Instead, it will be appropriate if the learned Trial Judge is directed to hear the Chamber Summons on the appointed date, i.e., 5th April 2019 and thereafter dispose of the same in accordance with law as expeditiously as possible and in any case on or before 30th April 2019.

6] Mr. Satam, learned counsel for respondent Nos.1 to 3, states that the respondents will file a reply to the Chamber Summons latest by 2nd April 2019 and serve an advance copy to the learned counsel appearing for the plaintiff. Rejoinder, if any, to be filed by 4th April 2019. The learned Trial Judge is requested to hear the parties on the Chamber Summons on the appointed date, which shall be 5th April 2019, so that the Chamber Summons can be disposed of one way or other by 30th April 2019.

7] It is made clear that this Court had not adverted to the merits of the matter. Therefore, all contentions of all parties are specifically kept open to be decided by the learned Trial Judge. Further, it is made clear that if the learned Trial Judge is not to be influenced in any manner by the interim order made by this Court on 22nd March 2019. The said interim order was made only because it was pointed out that the petitioner's children were answering the exams and urgent relief was necessary. In all probability, the exams will be concluded by 30th April 2019. This position is accepted by

the petitioner as well as the learned counsel for the petitioner.

8] The circumstance that the interim order was made by this Court on 22nd March 2019 is not to be taken as a circumstance, which confers any rights, title or interests upon the petitioner, if, in fact and in law, the petitioner does not possess such rights, title or interests. In short, it is made clear that all contentions of all parties are kept open for the decision of the learned Trial Judge completely uninfluenced by this Court's interim order dated 22nd March 2019. However, it is apparent that until disposal of the Chamber Summons or until 30th April 2019, whichever is later, the interim order dated 22nd March 2019 shall operate.

9] This petition is therefore, disposed in the aforesaid terms. There shall be no order as to costs.

10] All concerned to act on the basis of an authenticated copy of this order.

(M. S. SONAK, J.)