

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7872 OF 2017

Chintaman Moreshwar Ambavane	...Petitioner
vs.	
Shantaram Jivlya Gavit and Ors.	...Respondents

Mr. S.S. Patil, for the Petitioner
Ms. Neeta Karnik, for Respondent No. 1.

CORAM : M. S. SONAK, J.

DATE : MARCH 25, 2019

ORAL JUDGMENT

. Heard Mr. Patil, learned counsel for the Petitioner and Ms. Karnik, learned counsel for the Respondent No. 1.

2. Mr. Patil points out that in this Petition, the challenge is to the impugned order dated 4th April, 2017 by which the learned trial Judge has allowed the application No. 17 of 2012 made by and on behalf of Respondent No. 1.

3. Accordingly, he submits that the presence of other Respondents is not necessary for deciding this Petition. This statement is accepted.

4. Accordingly, rule.

5. Rule made returnable forthwith with consent and request of learned counsel for the parties, Petition is disposed of finally at the stage of admission.

6. The impugned order in the present case read thus:

“Perused application and say thereon. Granted. In the interest of justice. Hence, application allowed.”

7. In this case, the order for appointment of Commissioner was made way back on 21st February, 2014. The Respondent No. 1 has applied for recall of the said order on some grounds. Such application could not have been allowed in such summary manner and without indicating any reason whatsoever since the impugned order is unreasoned and does not reflect any application of mind, the same is set aside.

8. The learned trial Judge is however directed to decide the application made by Respondent No. 1 on 7th March, 2017 afresh on its own merits and in accordance with law.

9. Needless to add that learned trial Judge whilst disposing of such application one way or the other will assign reasons for its decision.

10. Rule is made absolute in the aforesaid terms.

11. There shall be no order as to cost.

12. All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)