

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7787 OF 2018

Tata Motors Limited

...Petitioner

Vs.

Praman Motors Limited & Ors.

...Respondents

**Mr. Agnel Carneiro a/w. Ms. Preeti Sabne
i/b Mulla & Mulla, for the Petitioner
Ms. Swati Kakwani i/b Intralegal,
for the respondent No.5.
Ms. Alka Mungekar i/b G.D. Talreja & Asso.,
for the respondent No.6**

CORAM : M. S. SONAK, J.

DATE : MAY 03, 2019

ORAL JUDGMENT :

1. Heard Mr. Agnel Carneiro for the petitioner and Ms. Alka Mungekar for the respondent No.6.
2. Since the contesting respondent is respondent No.6, Rule is granted in this petition and the same is made returnable forthwith, with consent of Learned Counsel for the parties.
3. Challenge in this petition is to the order dated 2/4/2018 made by City Civil Court in Chamber Summons taken out by respondent No.6 seeking impleadment in Suit No.6384/04.
4. Mr. Carneiro sought to raise several contentions to assail the

order dated 2/4/2018 but he at the outset contended that City Civil Court, in fact had no jurisdiction to entertain Suit No.6384/04. He submits that the suit was originally instituted in this Court but was mistakenly transferred to City Civil Court by overlooking the position that the suit had been valued at Rs.5,82,00,000/-. He submits that ultimately, the suit has been re-transferred to this Court and places on record order dated 5/10/2018 made in Misc. Civil Application No.200/2018. On this basis, he submits that the impugned order dated 2/4/2018 is required to be set aside.

5. Ms. Alka Mungekar, Ld. Counsel for respondent No.6 submits that the order made is quite innocuous. She submits that respondent No.6 was required to seek impleadment inter alia in view of order dated 26/5/17 made by City Civil Court itself restraining the Collector / SDO / Tehsildar of Ajmer, Rajasthan not to initiate any action in connection with the suit properties described at Exh.K1 and K2 of the plaint on the basis of notice dated 5/5/2017. She submits that these authorities who have been restrained by order dated 26/5/17, were seeking to recover dues payable to the workmen whose cause is espoused by respondent No.6 Union. She submits that the petitioner, who has secured order dated 26/5/17 from the City Civil

Court, cannot, in the same breath urge that the City Civil Court lacks jurisdiction to entertain the suit. On this ground, she submits that this petition may be dismissed.

6. Rival contentions now fall for determination.

7. The record indicates that Suit No.6384/04 had indeed been instituted by the petitioner in this Court. However, the same was transferred to the City Civil Court alongwith several suits which came to be transferred on account of the changes made in the pecuniary jurisdiction.

8. Later on, it was noticed that the suit was valued at Rs.5,82,00,000/- and therefore, it is not the City Civil Court but this Court which always retained jurisdiction to entertain the suit. Ultimately, in Misc. Civil Application No.200/2018 an order was made on 5/10/2018, in which, this position was clarified and it was held that the suit should not have been transferred from this Court to the City Civil Court. The order of transfer was accordingly recalled and the suit is presently before this Court.

9. Taking into consideration the aforesaid position, the contention of Mr. Carneiro that the impugned order dated 2/4/2018 was made by the City Civil Court which lacks jurisdiction will not have

to be accepted and on such basis impugned order dated 2/4/2018 will have to be set aside.

10. At the same time, there is also merit in the submission of Ms. Mungekar that the petitioner cannot defend the order dated 26/5/17, which is in favour of the petitioner, if the contention of the petitioner the City Civil Court had no jurisdiction in the matter is to be accepted.

11. Accordingly, in the exercise of supervisory jurisdiction under Article 227 of the Constitution of India, this Court would be obliged to even set aside the order dated 26/5/2017 made by the City Civil Court injuncting the Collector / SDO / Tehsildar of Ajmer, Rajasthan from enforcing the notice dated 5/4/2017 and seeking to recover the dues of the workmen whom the respondent No.6 Union seeks to represent.

12. Thus, for the aforesaid reasons not only the impugned order dated 2/4/ 2018 but also the order dated 26/5/2017 made by the City Civil Court, deserves to be set aside and the orders are hereby set aside.

13. The setting aside of the aforesaid impugned orders is only on the ground that the City Civil Court lack jurisdiction to entertain the suit and consequently make the aforesaid two orders in the suit. Therefore, the setting aside of the aforesaid two orders will not preclude either petitioner or the respondent No.6 from making

appropriate applications to this Court where suit No.6384/04 which is now numbered as High Court Suit No.589/2004 is pending. This liberty is therefore granted to both petitioner as well as respondent No.6. All contentions of all the parties on merits are therefore consequently kept open.

14. The rule is disposed of in aforesaid terms. There shall be no order as to costs.

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

(M. S. SONAK, J.)