

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9820 OF 2019

Smt.Lata Digambar Kaddi	.. Petitioner
Vs.	
Smt.Vidya Krishana Wakode and ors.	.. Respondents

Mr.Jaydev Trivedi a/w Mr.K.K.Tiwari & Ms.Bhupali Vaze, for the
Petitioner.

CORAM : M.S.KARNIK, J.

DATE :05th SEPTEMBER 2019

P.C. :

. Heard learned Counsel for the petitioner.

2. The order under challenge in this Petition is passed
by the learned Principal Judge, City Civil Court, Mumbai
rejecting the Transfer Application No. 23 of 2019 filed by the
petitioner – original plaintiff for transferring Suit No. 291 of
2015 pending on the file of C.R.No.1 (at Dindoshi) to any other
Court.

3. Learned Counsel for the petitioner submitted that in a pending Suit filed by the petitioner- plaintiff, despite there being an order passed by the trial Court directing the defendants not to create third party rights in the suit property, the defendants executed leave and licence agreement. This in the submission of the learned Counsel for the petitioner is breach of order of injunction granted by the trial Court. The plaintiff therefore filed contempt proceedings before the trial Court. It is the submission of the learned Counsel for the petitioner that without hearing the plaintiff, the trial Court closed the matter and proceeded to decide the Contempt Petition. The Contempt Petition came to be dismissed. It is the submission of the learned Counsel for the petitioner that no proper opportunity of hearing was provided before the Contempt Petition is decided.

4. Learned Counsel for the petitioner therefore submits that the plaintiff had no option but to file an application for transfer of the proceedings from C.R.1 – Dindoshi to any other Court. The Principal Judge by impugned order rejected the

application for transfer.

5. I have gone through the order passed by the Principal Judge. The only reason for the transferring the proceedings from one Court to other is that during the course of hearing of Contempt Petition, the trial Court passed order without hearing the Counsel for the plaintiff. Learned Counsel for the petitioner pointed out that already a Petition has been filed challenging the order passed by the trial Court rejecting the contempt proceedings.

6. However, insofar as the transfer application is concerned, the same is filed on the ground that Counsel for the petitioner was not heard before passing the order in Contempt Petition. In my opinion, this cannot form the basis for filing of the transfer application. The application is without substance. The order of the trial Court records that the parties were duly heard by learned Presiding Judge before passing the impugned order.

Be that as it may, the challenge to the order passed in contempt proceedings would be decided on its own merits and in accordance with law. However, I find no reason to interfere with the order passed by Principal Judge refusing to transfer the proceedings. Petition is dismissed.

(M.S.KARNIK, J.)