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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.408 OF 2017

Pravin K.Shah & Anr. ..Applicants.
V/s.
M/s. International Engineering Works & Ors. ..Respondents.

Mr.Farhan Dubhash with Nilesh Modi, B.N.Jadhav i/b. Rustomji & Ginwala for the applicants.

Mr.Deepak Shukla I/b. M/s. Vinod Mishra & Co. for respondent No.29.

CORAM : M.S.SONAK, J.

DATE : APRIL 10, 2019

P.C.:-

Heard Mr.Dubhash, learned counsel for the applicants and Mr.Shukla, learned counsel for respondent No.29.

2. Challenge in the application is to the order dated April 19, 2017 by which learned trial Judge dismissed the applicant's Chamber Summons seeking their deletion from the suit, in which they have been impleaded as defendant Nos.19 and 20.

3. Mr.Dubhash, learned counsel for the applicants points out that defendant No.20 has already been struck off and dissolved in terms of section 560(5) of the Companies Act,1956. Further, he submits that

defendant No.19 has been impleaded as a party of defendant No.1 firm. He points out that defendant No.1 firm had three partners i.e. defendant Nos.19, 20 and 14. He points out that defendant No.14 has already been ordered to be deleted since he passed away. He points out that defendant No.20 is no longer in legal existence. He, therefore, submits that there can be no partnership firm with only one partner and consequently, there is no question of defendant No.19 to be impleaded in his capacity as a lone partner of defendant No.1. For all these reasons, he submits that the impugned order is required to be set aside and the chamber summons is required to be made absolute.

4. From the perusal of the impugned order, all that the learned trial Judge has observed is that, it would not be appropriate at this stage to order the deletion of defendant Nos.19 and 20. Learned trial Judge has noted that all these contentions of the defendants can be kept open to be addressed at the relevant stage of the suit.

5. At this stage, the impact of deletion of defendant Nos.19 and 20 is not quite clear, though, atleast *prima facie*, there does not appear to be good reasons to continue with defendant No.20 in the suit.

6. Nevertheless, considering the nature of the order made by learned trial Judge, there is no necessity to exercise supervisory jurisdiction under Article 227 of the Constitution of India and interfere with the impugned order, particularly, since the rights and contentions

of the applicants have been expressly left open by the impugned order.

7. For the aforesaid reasons, this civil revision application is dismissed. However, all rights and contentions of the applicants are specifically left open.

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

(M.S.SONAK, J.)