

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10721 OF 2018

M/s. Siddi Gaurav Enterprises & Ors.	..Petitioners.
V/s.	
Dattaram Eknath Patil & Ors.	..Respondents.

Mr.S.N.Oak for the petitioners.

Ms.Monika Yadav I/b. Prashant M.Patil for the respondents.

CORAM : M.S.SONAK, J.

DATE : APRIL 12, 2019

ORAL JUDGMENT

Heard Mr.Oak, learned counsel for the petitioners and Ms.Yadav, learned counsel for respondent Nos.1 to 10-original plaintiffs.

2. Since respondent Nos.1 to 10 are the contesting parties, rule is issued. Rule made returnable forthwith with the consent and at the request of learned counsel for the parties.

3. Challenge in the petition is to the order dated September 1, 2018 by which learned trial Judge refused to adjourn the matter which was posted for hearing on the application for interim relief (Exhibit-5).

4. According to me, the reasons stated in the application

seeking adjournment on the ground of the advocate's hospitalization, was sufficient to grant adjournment. Accordingly, he submits that the impugned order dated September 1, 2019 be set aside.

5. Learned counsel for respondents submits that the petitioners are delaying the hearing of application Exhibit-5 application and, therefore, costs should be imposed upon the petitioners.

5. Mr.Oak, learned counsel for the petitioners, upon taking instructions from the petitioners volunteered to pay the costs of Rs.15,000/- and submits that the petitioners are interested in early hearing of Exhibit-5 application and without prejudice, offered to pay the costs of Rs.15,000/-. According to me, this amount of costs is quite reasonable in the facts of the present case.

6. Accordingly, the petition is disposed of by passing the following order :-

- a) The impugned order is set aside subject to the payment of costs of Rs.15,000/- within a period of two weeks from today. The costs be paid to the respondent or deposited before the trial Court;
- b) If the costs are deposited in the trial Court within a period of two weeks from today, the respondents are at liberty to withdraw the same unconditionally;
- c) If the costs are not paid / deposited within a period of two weeks from today, then, this petition shall be deemed to have been

dismissed without further reference to this Court;

d) The parties to appear before the trial Judge on April 22, 2019 at 11.00 a.m. and file an authenticated copy of this order;

e) The trial Judge is directed to dispose of the application Exhibit-5 within a period of two months from today.

7. Rule is made absolute in the aforesaid terms.

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

(M.S.SONAK, J.)