

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12250 OF 2018

Swati Vedant Jatia ... Petitioner
Vs.
Vedant Vijay Jatia and others ... Respondents

Ms T. F. Irani for Petitioner.

Mr. Ramesh Lalwani for Respondent No.1.

Mr. Darius Khambata, Senior Advocate i/b. Mr. Rohaan Cama, Ms Naira Jeejeebhoy, Mr. Karan Kadam and Shireen Pochkhanwalla i/b. Maneksha & Sethna for Respondents No.2 and 3.

CORAM : R. G. KETKAR, J.

DATE : MARCH 8, 2019

P.C. :

Heard Ms Irani, learned Counsel for the petitioner, Mr. Lalwani, learned Counsel for the respondent No.1 and Mr. Khambata, learned Senior Counsel for respondents No.2 and 3 at length.

2. This Petition takes exception to the order dated 26.09.2018 below exhibit-141 in Petition No.D-44 of 2013 passed by the learned Judge, Family Court No.4 at Bandra, Mumbai.

3. Rule. Learned Counsel for respective respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

4. The matter was heard at length on 07.03.2019 and was kept today so as to enable Mr. Khambata to take instructions from respondents No.2 and 3 as to whether they are agreeable for setting aside the impugned order and restoration of application exhibit-141 for deciding it afresh. Mr. Khambata, on instructions, submits that the impugned order may be set aside and application exhibit-141 may be ordered to be

disposed of in a time bound manner.

5. Mr. Irani assures that petitioner will file reply to application exhibit-141 on 12.03.2019 and try to serve copy in advance by 11.03.2019 on the other side.

6. Hence, by consent of the parties, Petition is disposed of in the following terms:

- a. The impugned order dated 26.09.2018 below exhibit-141 in Petition No.D-44 of 2013 is quashed and set aside;
- b. Application exhibit-141 is restored to its original position. Petitioner shall file reply on 12.03.2019 and serve copy in advance on the other side by 11.03.2019;
- c. The learned trial Judge is requested to dispose of exhibit-141 within two weeks from 12.03.2019;
- d. The learned trial Judge will decide the said application exhibit-141 on its own merits on the basis of material on record and in accordance with law, uninfluenced by the fact that by consent of the respondents No.2 and 3, impugned order is set aside and the matter is remitted;
- e. All contentions of the parties on merits are expressly kept open;
- f. Till such time application exhibit-141 is decided, the learned trial Judge will not insist upon respondents No.2 and 3 to file their reply to exhibit-109;
- g. Rule is made absolute in the aforesaid terms with no order as to costs.
- h. Order accordingly.

(R. G. KETKAR, J.)