

Rane

1/6 MCA(ST)-30706-2018
(sr.513)
18.3.2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION (ST) NO. 30706 OF 2018

Vijaypat Singhanian

.....Applicant

V/s.

Raymond Limited thr. C.A.

Mr. Thomas Ritaldo Fernandes

and Ors.

....Respondents

* * * *

Mr. Vibhav Krishna a/w. Mr. Devang Lakhotia i/by. Juris Consillis, Advocate for the applicant.

Mr. Janak Dwarkadas, Senior Advocate with Mr. Girish S. Godbole, Mr. Mudit Gupta, Ms. Sanjana Das, Mr. Sarthak Malhotra i/by. Mehta & Padamsey, Advocate for respondent no.1-Raymond.

CORAM : SANDEEP K. SHINDE, J.

Monday, 18th March, 2019.

P.C. :

1. Mentioned. Not on board. Taken on production board.

2. It is an application filed under Section 24 read

with Section 151 of the Code of Civil Procedure, 1908 whereby the applicant seeks transfer of Special Civil Suit No. 938 of 2018 filed by respondent no.1 in the Court of Civil Judge, Senior Division, Thane and the consolidation of hearing with Suit bearing (Stamp) No. 13244 of 2018 filed by the current Chairman and Managing Director of respondent no.1 in the Bombay City Civil Court at Mumbai.

3. Both the suits seeks substantially the same reliefs i.e. to injunct the applicant from publishing his autobiography.

4. Pending suit, an application for interim reliefs below Exhibit-5 is in progress.

5. On 15th February, 2019 proceedings in this application were produced and at the request of the applicant, the following order was passed :

“ . Hearing of this application is adjourned till 13th March, 2019. Learned trial Judge shall defer hearing of application Exhibit-5 beyond 13th March, 2019.

. Misc. Civil Application to come up for hearing on 13th March, 2019 on supplementary board.”

6. On 20th February, 2019 papers in the subject application were produced before this Court for urgent reliefs by the respondents-plaintiffs, and after hearing the parties, following order was passed :

“ Till 13th March, 2019 the applicant herein shall not publish his book which is subject matter of pending suit being Special Civil Suit No. 938 of 2018 before the Civil Judge, Senior Division, Thane”.

7. The subject application was not listed for hearing on 13th March, 2019 and therefore, the papers are produced before the Court for modifying the order dated 15th February, 2019 and consequential order dated 20th February, 2019. In the course of arguments, it was suggested to learned Counsel for the applicant that this

matter would be listed for admission, in the second week of April, 2019 and till then both the orders dated 15th February, 2019 and 20th February, 2019 would continue to operate. However, the learned Counsel requested for recalling the order dated 15th February, 2019 which was passed at his request. In effect, if the order dated 15th February, 2019 is recalled, the learned Civil Judge Senior Division, Thane would proceed to hear the application below Exhibit-5 preferred by the respondents-plaintiffs.

8. Learned Counsel for the applicant, submitted that, the order dated 20th February, 2019 may be recalled as it is against the applicant's interest to which Learned Counsel for the respondent has raised objection.

9. The order dated 20th February, 2019 is a consequential order.

10. Thus, taking into consideration the facts of the case and the submissions of the Counsel for the applicant, I deem it appropriate to request the Learned Civil Judge Senior Division, Thane to hear the application below

Exhibit-5 filed by the plaintiff in Special Civil Suit No. 938 of 2018 preferably on 25th March, 2019 at 3.00 p.m and conclude the same as expeditiously as possible.

11. In this case, the ad-interim relief was refused to the plaintiff in October, 2018 and till date the book has not been published/released by the defendant. Infact, at the instance of the applicant, hearing of Exhibit-5 was deferred and on 20th February, 2019 order which was passed is a consequential order whereby the applicant-defendant was restrained from releasing/publishing the book which is subject matter of the pending suit.

12. Thus, taking into consideration the facts of the case and the submissions advanced by the Counsel for the applicant, the order dated 15th February, 2019 and order dated 20th February, 2019 are recalled, however, till 25th March, 2019 the applicant-defendant is injuncted from releasing/publishing the book which is subject matter of the suit.

13. The applicant and the respondents are directed to

appear before the Learned Civil Judge Senior Division,
Thane on 25th March, 2019 at 3.00 p.m.

14. It is clarified that order dated 20th February, 2019 and its continuation till 25th March, 2019 is consequential and not passed on merits of the case. Learned Judge shall thus decide application below Exhibit-5 independently, without being influenced by this order.

15. At this stage, Mr. Vibhav Krishna, the learned Counsel for the applicant seeks leave to withdraw the application. The Misc. Civil Application is dismissed as withdrawn.

(SANDEEP K. SHINDE, J)