

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 398 OF 2020

Naresh K. Rajwani

...Petitioner

Vs.

Western India Tenneries Ltd. & anr.

...Respondents.

Mr. Farhaan Dubhash with Mr. Shukla i/by M/s. Legal Vision for the Petitioner.

Ms. Yasmin Tavaría with Mr. Abhishek Yadav for the Defendant No.1.

Mr. M.S.Bhandari i/by Pranjali Bhandari for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th February, 2020

PC:

1. Heard learned counsel for the parties.

2. In view of the submissions advanced by the learned counsel for the petitioner, that the Respondent No.1 ought to have challenged the entry in the roznama dated 25.11.2009, learned counsel for the respondent No.1 states that, the respondent No.1 has no objection if the Order dated 15.3.2019 passed by learned City Civil Court, Mumbai in Notice of Motion No. 2779 of 2018 in L.C. Suit No.7758 of 1997 is quashed and set aside with liberty to the respondent No.1 to file a fresh notice of motion challenging the entry in the Roznama which is at Page 16 dated 25.11.2009, relied upon by the learned counsel for the petitioner.

3. Accordingly, the impugned order dated 15.3.2019 is quashed and set aside with liberty to the respondent No.1 to file a fresh Notice of Motion for challenging the noting made in the Roznama dated 25.11.2009 which was not available to the respondent No.1 at the time when the earlier notice of motion No. 1406 of 2005 was filed.

3. Since the impugned order is quashed and set aside, in the facts, the respondent No.1 is permitted to withdraw the notice of motion with liberty to file a fresh notice of motion. If the respondent No.1 files a fresh notice of motion challenging the noting made in the Roznama dated 25.11.2009, the learned Judge to consider the same on its own merits in accordance with law.

4. All contentions of the parties are kept open.

5. As far as cost imposed vide order dated 15.3.2019 is concerned, the same be returned to the respondent No.1 within two weeks from today.

6. Petition is disposed of in the aforesaid terms.

7. All parties to act on an authenticated copy of this order.

REVATI MOHITE DERE, J.