

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1682 OF 2020

Mr. Shodhan Dattatray Varadkar and OrsPetitioners

V/s.

Mr. Satish Gajanan Varadkar and othersRespondents

Ms. Deepti N. Wadkar Shirsat for the Petitioners

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 11, 2021.

P.C.:

1] Though served, none appeared for the Respondents. In a Suit for declaration and injunction, 'No cross' order was passed against Petitioner-Defendant of which setting aside is sought vide Application Exhibit 84 which is rejected on 19/12/2019 vide impugned order.

2] The submissions are, Petitioner-Defendant moved an Application seeking permission to cross-examine witness of the Plaintiff as no cross order was passed. According to her, there was no intention on the part of the Petitioner to delay the trial in the Suit.

My attention is invited to the say given by the Respondent-Plaintiff to the aforesaid prayer for setting aside 'No cross' order.

Having appreciated the above submissions, it is to be noted that right to cross-examine a witness is part of process of granting reasonable opportunity of hearing. Same is valuable right denial of which may result in denial of opportunity to defend the case. In the interest of justice an opportunity needs to be offered.

3] The contentions of the Petitioner are not controverted, in my opinion, Petitioner has made out a case for grant of an opportunity to cross-examine the witness of the Plaintiff.

4] The assurance given by the learned counsel for the Petitioner that no adjournment will be sought in the matter of cross-examination of the witness of the Plaintiff is accepted.

5] In the aforesaid background, order impugned passed below Application Exhibit 84 on 19/12/2019 in R.C.S. No. 26 of 2014 is hereby quashed and set aside. Application Exhibit 84 stands allowed

subject to cost of Rs. 1000/- to be deposited within period of 4 weeks from today before the Trial Court.

6] Petition is allowed in the above terms.

[NITIN W. SAMBRE, J.]