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WRIT PETITION NO. 6212 OF 2019

NARMADA DADA BANDGAR & ANR. ..PETITIONERS
VS.
SADHANA PATLU BANDGAR & ORS. ..RESPONDENTS

Mr. P.S. Hagare for petitioners.
Mr. P.N. Bhabal for respondents.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 9, 2021

P.C. :

Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The petitioners are the original defendants. The plaintiffs filed Special Civil Suit No.14 of 2016 before the Jt. Civil Judge, Senior Division, Baramati, for recovery of money borrowed from husband of the plaintiff no.1 by the defendants.

3. The matter was fixed for cross examination of the plaintiff no.1 on 22/3/2018. An application for adjournment was made but the same was rejected by the trial Court. On

4/4/2018, an application was made for clubbing of another Special Civil Suit contending that similar reliefs are sought. The said application came to be rejected and thereby 'no cross order' in the roznama was passed. Thereafter, an application at Exhibit 42 under Order 17 read with Section 151 of the Code of Civil Procedure came to be filed for setting aside 'no cross order' dated 4/4/2018. The application (Exhibit 42) came to be rejected by the order dated 6/2/2019.

4. The suit is filed in the year 2016. In the application it is stated that the other Special Civil Suit No.31/2016 is pending which is filed for similar reliefs and therefore it was necessary to hear this suit along with Special Civil Suit No. 31 of 2016. The defendant no.1 was pursuing that application and there was no intention to delay the cross examination is what learned counsel for the petitioners submits.

5. Learned counsel for the respondents vehemently opposed the petition. He submitted that time and again adjournments are being sought only with a view to protract

the litigation. He supported the impugned order. It is contended by learned counsel for the respondents that the plaintiff is facing financial difficulties.

6. I have gone through the impugned order. Though the reason given by the defendant no.1 that they were awaiting the decision on the application that Special Civil Suit No.31/2016 filed for similar reliefs should be heard along with the present suit, which resulted in failure on the part of the defendant no.1 to cross examine the plaintiff, does not appear to be very sound, nonetheless, in my opinion, in the present facts, the defendant should not be denied an opportunity of cross examining the plaintiff, as the interest of justice will be sub-served by imposing conditions on the petitioners including payment of cost. Hence the following order.

ORDER

1. The impugned order is set aside.
2. The application (Exhibit 42) is allowed.
3. On the date fixed for cross examination of the plaintiff, it is made clear that the petitioners/defendants will not seek any adjournment.

4. Parties to co-operate with the trial Judge in expeditious disposal of the suit.

5. The trial Court is requested to decide the suit itself within a period of 18 months from today.

6. It is made clear that the parties will not seek unnecessary adjournments.

7. The writ petition is allowed subject to payment of cost of Rs.5,000/- to be payable by the petitioners to the plaintiff no.1 within a period of two (2) weeks from today.

8. Parties to appear before the trial Court on 6/1/2022 along with the copy of this order when the trial Court may fix further schedule of hearing.

9. The writ petition is disposed of.

(M. S. KARNIK, J.)