

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3148 OF 2020

M/s Garima Enterprises & Ors. Petitioners

Vs.

M/s Dharmesh Construction Co. Respondent

Mr. Vishal Kanade a/w Harsha Asnani i/by The Law Point for Petitioners.
Mr. Ganesh S. Bhat for Respondent Nos. 1 to 3.

Coram : NITIN W. SAMBRE, J.

Date : 24th AUGUST, 2021

P.C.:

1. After having heard Mr. Kanade, learned counsel appearing for the Petitioners- original Defendant Nos. 2 to 4, since this Court is not inclined to show any indulgence in the matter of the order impugned dated 15th December, 2018, passed below Exhibit 43 granting amendment of Plaint, on instructions made a prayer for withdrawal of the petition to the aforesaid extent i.e. challenge to the order granting amendment. As such, petition to that extent stands dismissed as withdrawn.

2. Since by way of order below Exhibit 43, the Respondent/ Plaintiffs are permitted to amend the Plaint, which I am informed is already carried out and the trial in the suit is yet to commence, in my opinion, the order rejecting the prayer of the Petitioner/Defendants Nos. 2 to 4 to set aside the order of suit to proceed without additional written statement warrants interference.

3. The order dated 7th January, 2020 as such stands set aside subject to payment of costs of Rs.3,000/- to be deposited in the Court below, to which the Plaintiffs will be entitled to withdraw. The amount of costs be deposited within four weeks from today.

4. The Petitioner shall take out the formal application before the trial Court seeking permission to take additional written statement on record, subject to deposit of aforesaid amount of costs.

5. The trial Court is requested to allow such application keeping in mind the pendency of the suit during pandemic and also the fact that the trial in the suit is not yet commenced.

6. Let additional written statement alongwith the application for setting aside no W.S. order be tendered within four weeks from today.

7. The Petition is partly allowed in above terms.

(NITIN W. SAMBRE, J.)