

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO. 39 OF 2019
IN
CHAMBER SUMMONS NO. 881 OF 2014
IN
SUIT NO. 396 OF 2006

M/s. Apex Construction .. Appellant

Versus

Adarsh Water Parks & Resorts Pvt Ltd & Ors. .. Respondents

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- Mr. D.D. Madon, Senior Advocate a/w Mr. Chetan Kapadia & Ms. Vidisha Rohra i/by Mr. Nikhil Ranadive for the Appellant
 - Mr. Hemang S. Raythatha i/by RMG Law Associates for Respondent No. 1
 - Mr. Prasad Dhakephalkar, Senior Advocate a/w Mr. Zubin Behramkamdin i/by Ms. Ekta Dalvi for Respondent No. 2
 - Mr. Rishi Soni i/by Mr. Jitendra J. Shah for Respondent No. 3
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CORAM : S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.

DATE : OCTOBER 05, 2021.

P.C.:

In Suit No. 396 of 2006, the Appellant had filed Chamber Summons No. 881 of 2014 seeking impleadment as party Defendant to the Suit. The said Chamber Summons is dismissed by the learned Single Judge by his order dated 21st / 22nd June, 2017. After passing of the said order, it appears that the parties therein have moved the Court and filed Consent Terms and the said Suit has been disposed off by a Consent Decree.

2. The above Appeal is now filed by the Appellant impugning the

Order dated 21st / 22nd June, 2017 passed in Chamber Summons No. 881 of 2014.

3. Since the above Suit has been disposed off by this Court by a Consent Decree and the Appellant has already filed an Interim Application for setting aside the said consent decree obtained from the Court, we are not inclined to pass any orders in the above Appeal and leave it to the learned Single Judge to decide the Interim Application filed by the Applicant for setting aside the consent decree without being influenced by what is observed / held in the impugned order dated 21st / 22nd June, 2017.

4. We also make it clear that in the event of the consent decree being set aside by the Learned Single Judge and the Suit restored to file, the Appellant shall be at liberty to file a fresh Appeal impugning the order dated 21st / 22nd June, 2017 passed by the learned Single Judge.

5. All rights and contentions of the parties in the Interim Application for setting aside the consent decree are kept open. All contentions of the parties shall also be kept open in the event of a fresh Appeal being filed.

6. The Appeal is disposed off accordingly.

[MILIND N. JADHAV, J.]

[S. J. KATHAWALLA, J.]