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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.536 OF 2021

M/s Butibori CEPT Pvt. Ltd.,
Having its registered office at
P-31, MIDC Industrial Area, Butibori,
Nagpur – 441 122 through its Director. **Petitioner.**

:: V E R S U S ::

1. M/s.Indo Rama Synthetics (I) Ltd.,
A Company incorporated within the
meaning of Companies Act, 1956 and
having its office at A-31, MIDC Industrial
Area, Butibori, Nagpur 441 122, through
its Authorised Signatory Shri Saurabhdeo
Sharma, Sr.Manager (Legal).

2. Maharashtra Industrial Development
Corporation, having its office at Udyog
Bhavan, Civil Lines, Nagpur through it
Chairman.

3. Butibori Manufacturers Association,
Having its office at Udyam, P-5 MIDC
Industrial Area, near Fire Station,
Butibori, Nagpur through its president
Shri Nitin Lonkar. **Respondents.**

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Shri A.M.Ghare, Counsel for the petitioner.
Shri Nitin Lalwani, Counsel for respondent No.1.
Shri Ranjeet Singh Gehlot, Adv. h/f Shri A.C.Jaltare, Counsel for
respondent No.2.
Shri R.M.Bhangde, Counsel for respondent No.3.

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CORAM : **V.M.DESHPANDE, J.**
DATE : **FEBRUARY 04, 2021**

ORAL JUDGMENT

1. Heard learned counsel Shri A.M.Ghare for the petitioner and learned counsel Shri Nitin Lalwani, who submitted that he has instructions to appear on behalf of respondent No.1 and he has already filed his Vakalatnama and he does not wish to file any reply to the writ petition. The statement is accepted. Also, heard Advocate Shri Ranjeet Singh Gehlot h/f learned counsel Shri A.C.Jaltare for respondent No.2 and learned counsel Shri R.M.Bhangde for respondent No.3. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

2. At the outset, learned counsel Shri A.M.Ghare for the petitioner submitted that he is not pressing prayer clause (d) of the writ petition at this stage and will file appropriate application, if so advised.

3. Respondent No.1 filed special civil suit for declaration, injunction, and recovery of money against the petitioner and

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respondent Nos.2 and 3. The said suit was registered as Special Civil Suit No.487/2019. Along with plaint, respondent No.1 also filed an application for interim relief under Order XXXIX Rules 1 and 2. The said application is at Exhibit 5 and is pending on the file of learned Judge of Court below from April 2019.

4. The suit as well as the application for injunction is contested by the petitioner and respondent Nos.2 and 3 by filing their respective replies and written statements.

5. Be that as it may, the suit was fixed on 25.1.2021 for hearing on application for injunction. On the said day, an application for adjournment was moved by learned counsel for the petitioner (defendant No.2) before the Court below. The said application is at Exhibit-54. In the application, it was stated that Advocate Shri S.C.Mehadia for the petitioner (defendant No.2) is tested Covid-19 positive and he, being aged about 74 years and a senior citizen, was admitted as an indoor patient in Kings Way Hospital. It was also stated in the application that as per medical advice, Advocate Shri Mehadia was required hospitalization and

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after his discharge, he was asked to remain home quarantine and, therefore, in the application it was stated that the matter be posted after a period of three weeks. Surprisingly, the application was opposed on behalf of original plaintiff taking a plea that defendant No.2 can file written notes of argument below Exhibit- 5 within 4-5 days and the matter can be processed expeditiously because Exhibit-5 was argued by the plaintiff on earlier occasion. On the very same day, learned Judge below passed order which is reproduced herein below:

“ORDER

Perused the application and say. The matter is of urgent nature. In view of say filed the written arguments can be filed. Moreover, the def no.1 & def no.3 have filed amendment application. Hence, granted for today.”

Thus, adjournment only for one day was granted.

Being aggrieved by the said, the petitioner approached to this Court.

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6. On 27.1.2021, this writ petition came up for its admission before this Court and after issuing Notices of final disposal, stay was granted staying further progress of Special Civil Suit No.487/2019 pending on the file of learned 17th Civil Judge Senior Division, Nagpur.

7. Today, when this writ petition was called out, learned counsel Shri Nitin Lalwani for respondent No.1 fairly stated that he is not supporting the order passed by learned Judge below Exhibit-55 in Special Civil Suit No.487/2019. He submitted that order be quashed and the suit be posted for hearing on Exhibit 5 as per convenience of counsel for the petitioner (defendant No.2).

8. The application for injunction was pending from year 2019. It was not decided till order below Exhibit 54 was passed and hearing of plaintiff was complete. In the application for adjournment reason was disclosed as to why petitioner (defendant No.2) is seeking adjournment. The reason was that Advocate Shri S.C.Mehadia for defendant No.2, who is senior member of the Bar, was tested Covid-19 positive. Not only that, he was admitted as an

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indoor patient in Kings Way Hospital. Further, in the application it was stated that as per medical advice, even after discharge from hospital, he was required to remain home quarantine. In the light of these facts which were not disputed, learned Judge below should have shown some sensitivity and should not have adjourned the matter only for one day.

9. The entire world is suffering from pandemic of Covid-19. In the pandemic, what is most important, is to save lives rather than deciding matters hastily. The matters can be decided on its own merits in due course of time. However, if proper care is not taken about health, it may result into loss of lives which cannot be compensated and position cannot be reversed. The said aspect ought to have considered by learned Judge below before passing order granting only one day adjournment.

10. Advocate Shri Jitesh Duhilani appearing for the plaintiff before the Court below is also present in this Court. As per his statement, the matter is fixed on 9.2.2021.

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11. In this view of the matter, I pass following order:

ORDER

(1) The writ petition is allowed.

(2) The order dated 25.1.2021 passed by learned 17th Joint Civil Judge Senior Division, Nagpur below Exhibit 54 in Special Civil Suit No.487/2019 is hereby quashed and set aside.

(3) Since Advocate Shri S.C.Mehadia is required to remain home quarantine for one month, parties to this writ petition are directed to appear before learned Judge below on 4.3.2021.

With this, the writ petition is disposed of accordingly.

JUDGE

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