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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 2075 OF 2022

**KIRLOSKAR INSTITUTE OF ADVANCED
MANAGEMENT STUDIES**

....PETITIONER

V/s.

KIRLOSKAR BROTHERS LTD. AND ORS

....RESPONDENTS

Mr. Vishal Kanade a/w Saahil Bijliwala a/w Misha Matiani i/b
Thinklaw Advocates Advocate for the Petitioner
Dr. Abhinav Chandrachud i/b Manish S. Kelkar for Respondent no. 1
Mr. Ajinkya Udane for Respondent no. 2

CORAM : NITIN W. SAMBRE, J.

DATE: APRIL 19, 2022.

P.C.:

1) Heard respective counsel. In response to the submissions of Mr. Kanade, learned counsel for the Petitioner that the order impugned is cryptic and lacks reasons, Dr. Mr. Chandrachud, learned counsel appearing for Respondent no. 1 has invited my attention to para 23 from the Judgment of the Apex Court in the matter of **Kulwinder Kaur Alias Kulwinder Gurcharan Singh V/s. Kandi Friends**

Education Trust and Others¹. According to him, powers under Section 24 and 25 of Code of Civil Procedure, 1908 can be exercised at any given situation in the interest of justice. One of the reason mentioned in the impugned order is about satisfying the said condition.

2) I have appreciated the submissions.

3) It appears that order impugned contains only four lines of reasoning as reflected in para 7 which reads thus:

“Considering the factual matrix in both the matters and to avoid conflicting findings, by different Court and in the interest of justice, it is desirable that these two proceedings shall be decided by the one and same Court.”

4) Least that was expected of the Court while exercising powers under Section 24 is, to refer to the nature of claim in both the Suits and based on same record finding that there is likelihood of recording overlapping conclusion based on similar facts and between the same parties. Apart from above, even though Dr. Mr. Chandrachud is justified in claiming that powers under Section 24 of CPC can be exercised in the interest of justice, however, the Court while passing

¹ (2008) 3 Supreme Court Cases 659

order impugned ought not to have allowed the Application with recording sufficient reasons. Rather para 26 of the above Judgment of Apex Court expect the Court to record reasons which reads thus:

“26. In the case on hand, the High Court without stating anything whatsoever as to allegations and counter-allegations, without considering the reply submitted by the appellant herein and without recording recording any reason/ground passed the impugned order transferring the case. The learned counsel for the contesting respondent no doubt submitted that the Court has not observed anything since observations by a High Court one way or the other might prejudice one of the parties to the suit. It is true that normally while making an order of transfer, the court may not enter into merits of the matter as it may affect the final outcome of the proceedings or cause prejudice to one or the other side. At the same time, however, an order of transfer must reflect application of mind by the Court and the circumstances which weighed in taking the action.”

5) That being so, order impugned dated 15/11/2021 is hereby quashed and set aside. Application stands restored to file of learned Principal District Judge, Pune who is directed to decide the same expeditiously. Parties hereto agree that they shall appear before

Principal District Judge, Pune on 25/04/2022 and shall conclude their arguments on the very same day.

6) Till final order is passed on application under Section 24 of Code, let there be stay to further proceedings.

7) The Petition stands allowed in the above terms.

[NITIN W. SAMBRE, J.]