

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**27 CIVIL APPLICATION NO.2228 OF 2023
IN WP/15480/2019**

**RAMPION FINVEST PVT LTD
THROUGH ITS DIRECTOR AMIT ASHOK AGRAWAL
VERSUS
BHARAT NIRANJAN VAISHNAVA
THROUGH LRS KALPANA VAISHNAWA AND OTHERS**

...
Advocate for Applicant : Mr. Abhijeet Singh Chauhan
Advocate for Respondents : Mr. G.V. Wani
...

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 20-02-2023

PER COURT :

. Civil Application has been preferred by the applicant - respondent seeking the modification of the order dated 14.02.2020 passed by this Court in Writ Petition No.15480 of 2019.

2. By order dated 19.12.2019 passed by this Court in Writ Petition No.15480 of 2019, this Court had directed the petitioner to deposit an amount of Rs.1,00,000/- on or before 30.12.2019 before the trial Court as a condition precedent for considering the petition. As the amount was not deposited, by order dated 14.02.2020 the impugned order dated 29.08.2019 was quashed and set aside subject to cost of Rs.1,00,000/- which was already deposited by the petitioner before the trial Court. However in both these orders there

is no clarification about the withdrawal of the amount of Rs.1,00,000/- which is deposited as costs.

3. The learned counsel appearing for the applicant – original respondent submits that the order of ‘no cross’ passed against the petitioner was subject matter of the Writ Petition No.15480 of 2019 and in view of the consensus which had arrived at between the parties, considering the imposition of costs, the petition came to be disposed of by quashing and setting aside the impugned order dated 29.08.2019.

4. The learned counsel Mr. Wani appearing for the respondent submits that the original petitioner is expired and he has no further instructions and is unable to make any statement.

5. Considering that the subject matter of the challenge was an order of ‘no cross’ passed against the petitioner, which order came to be set aside, in view of the consensus which has arrived at between the parties, it appears that the imposition of the costs was for the benefit of the applicant - respondent who agreed to the quashing and setting aside of the impugned order.

6. In light of the above, the clause- III of the operative part

of the order dated 14.02.2020 is modified as under :

“III. The application (Exhibit-410) in Special Civil Suit No.10 of 2015 is hereby allowed in terms of its prayer clause, subject to costs of Rs.1,00,000/- which is already deposited by the petitioner – original defendant no.1 to be paid to the respondent no.1 (original plaintiff) before the trial Court in terms of the order dated 19.12.2019 passed by this Court (Coram: Ravindra V. Ghuge, J.)”.

7. Civil application stands disposed of accordingly.

(SHARMILA U. DESHMUKH, J.)

GGP