

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 1611 OF 2023**

State of Maharashtra and Anr.

.. Petitioners

Versus

Neminathjain Bramhacharya Ashram (Jain
Gurukul) and Ors.

.. Respondents

.....

- Mr. S. H. Kankal, AGP For Petitioners
- Mr. Pritesh Burad a/w. Ms. Twinkle Gadhiya a/w. Ms. Samita Vaviya i/by Pritesh Burad Associates for Respondent Nos. 1 and 2

.....

CORAM : MILIND N. JADHAV, J.**DATE : FEBRUARY 08, 2023.****P.C.:**

1. Heard Mr. Kankal, learned AGP for Petitioners and Mr. Burad, learned Advocate for Respondent Nos. 1 and 2.
2. The present Writ Petition takes exception to the order dated 20.11.2019 levying cost of Rs.500/- on the Petitioners which have not been paid by the Petitioners. By order dated 17.03.2021 the learned Trial Court has passed no cross order of PW-1 and order dated 18.01.2022 rejects the application filed by the Petitioners for setting aside the no cross order.
3. Mr. Kankal would submit that Petitioners are ready and willing to abide by the terms and conditions put forth by this Court. He would submit that the suit was filed by the Respondent Nos. 1 and 2 for permanent injunction in respect of the suit property which is in their

possession. He would submit that the order dated 20.11.2019 was in respect of no cross order of PW-1 whereas order dated 17.03.2021 was with respect to no cross order of PW-2.

4. Admittedly, there has been some delay, however it needs to be stated that delay and reasons advanced by the Petitioners were attributable to the Covid-19 pandemic period and in that view of the matter benefit would also be available to the Petitioners in view of the orders passed by the Supreme Court in Misc. Application No. 21 of 2022 in Misc. Application No. 665 of 2021 in *Suo Motu Writ Petition (C) No. 3 of 2020*.

5. That apart it is an admitted fact that the entire State Government machinery was completely engaged during the whole Covid-19 pandemic period and in that view of the matter and for the reasons stated in the Petition, I am inclined to accept the submissions made by Mr. Kankal, however subject to payment of costs of Rs. 10,000/- to be paid to the Kirtikar Law Library, High Court, Mumbai, within two weeks from today, receipt of which shall be produced on record. Subject to payment of costs, the impugned orders dated 18.01.2022, 17.03.2021 and 20.11.2019 stand set aside.

6. Mr. Burad in his usual fairness has submitted to the orders of the Court. However he submits that in the event if the Court is inclined to allow the Writ Petition, then in that case appropriate directions be given to the learned Trial Court to dispose of the pending Suit No. 21

of 2011 as expeditiously as possible. This approach of Mr. Burad is appreciated by the Court.

7. The learned Trial Court is directed to dispose of pending R.C.S. No. 21 of 2011 within a period of six months from today. Petitioners shall make arrangement to appoint an appropriate pleader to represent the Defendants in the aforesaid suit before the learned Trial Court and shall not seek any adjournment unless necessary.

8. Mr. Burad informs the Court that the suit was fixed for hearing before the learned Trial Court today. It is therefore directed that on the next date of hearing, Respondent Nos. 1 and 2's witness shall remain present before the learned Trial Court and the Petitioner's pleader shall also be ready for cross examination of the said witness.

9. Writ Petition is disposed.

10. Put up for compliance of payment of costs on **22nd February, 2023.**

[MILIND N. JADHAV, J.]

SONALI
SATISH
KILAJE

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by SONALI
SATISH KILAJE
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