

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11958 OF 2022

Lalita Paygonda Patil

.. Petitioner

Versus

Whirlpool of India Ltd & Anr.

.. Respondents

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• Mr. Sandeep S. Koregave for Petitioner

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 06, 2023

P.C.:

1. Heard Mr. Koregave, learned Advocate for Petitioner.
2. Perused the impugned order passed below Exh. 1 dated 13.02.2020. Petitioner in the present Petition has been successful in stalling the cross-examination after filing the present Writ Petition for almost three years without any stay order from this Court. That apart, record indicates that the suit was filed in the year 2006 and it *prima facie* appears that the Plaintiff is in no mood to complete the trial. The impugned order lists a litany of complaints about the conduct of the Petitioner before the learned Trial Court. Perusal of the same reveals that the Petitioner has been successful in stalling his cross-examination not only for days and months but years together. Such kind of practice on the part of the litigants is strongly deprecated by this Court. Considering the conduct of the Petitioner, the learned Trial Court has passed the impugned order by appointing Advocate Mr.

A.Y. Bhosale as Court Commissioner for recording the cross-examination as far back as on 13.02.2020. It was directed that the report of the Commissioner would be submitted within 15 days, however despite the passage of almost three years from the date of passing of the said order, no report has been submitted and the cross-examination has not taken place.

3. Though Mr. Koregave has made a vehement effort to challenge the impugned order, the conduct of the Petitioner as recorded by the learned Trial Court do not justify any consideration to the Petitioner. It clearly appears that the Petitioner is taking the system of justice for a ride and such conduct of the Petitioner shall not be allowed by this Court. Record indicates that the Plaintiff completed his examination in chief in 2014 and his cross examination began on 19.03.2016 and has remained incomplete ever since. The learned Trial Court has been constrained to record that for each and every question put to the Plaintiff, the Plaintiff has sought time for seeing the document and answer the question after spending much time on perusing the document. That apart, it is also recorded that on questions being put to the Plaintiff on the basis of the documents in the suit, the Plaintiff has wasted a lot of time in searching the document. Considering the overall conduct of the Plaintiff in not willing to complete his cross-examination which has commenced from 19.03.2016, the learned Trial Court thought it fit to appoint an

Advocate as Court Commissioner to record and complete his cross-examination so as to ensure that valuable judicial time of the Court was not wasted because of such litigation and other deserving cases are taken for hearing. By filing the present Writ Petition, the Plaintiff has stalled the proceedings for a further period of almost three years now.

4. Considering the aforementioned facts and observations, the impugned order is not only sustained but the Petitioner i.e. Plaintiff is directed to pay exemplary costs. The facts of the present case call for levying exemplary cost against the Petitioner and in that view of the matter, Petitioner is directed to pay costs of Rs. 25000/- to the Kirtikar Law Library, High Court, Mumbai within a period of two weeks from today.

5. Learned Court Commissioner is directed to take cognizance of this order and complete the remaining cross-examination of the Petitioner as early as possible and preferably within four weeks from today and submit report to the learned Trial Court as directed by the learned Trial Court in the impugned order.

6. In view of the above, Writ Petition is dismissed. However, place the Petition on board on **27th February, 2023** for compliance.

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
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AMBERKAR
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