

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11049 OF 2022

Ghani Investment & Trading Co. Ltd.

....Petitioner

Versus

Johnson Dye Works Pvt. Ltd. & Ors.

....Respondents

Mr. J. J. Thakkar for the Petitioner.

Mr. Mukesh Vashi Senior Adv. a/w Mr. Sean Wassoodew a/w Mr.
Rupesh Mandhare for the Respondent No.1.

Mr. Gaurang Mehta a/w Adv. Neelam Dedhia for the Respondent Nos.
1 & 2.

Mr. Gautam Ankhad i/b Vishal Narichania a/w Ms. Sushma Singh for
the Respondent Nos. 9 to 11.

CORAM : S. G. DIGE, J.

DATE : 17th FEBRUARY 2023.

P.C. :

1. Heard learned counsel for the Petitioner and learned
counsel for the Respondent No. 1 and learned counsel for the
Respondent No. 12 and the learned counsel for the Respondent Nos. 9
to 11.

2. The learned counsel for the Petitioner submits that the

Petitioner has impugned order passed by the Small Causes Court below Exhibit-'118' dated 30 June, 2022.

3. The learned counsel further submits that in the impugned order the trial Court has observed that "It is contended that the Defendant Nos. 1 to 7 and 11 to 13 are supporting the Plaintiff and hence, they should cross-examine PW-1 prior to Defendant Nos. 8 to 10". It is apprehended by the Defendant Nos. 8 to 10 that if they succeed in obtaining under the admission from PW-1 then the other allegedly supporting Defendants may wash out of the said admissions which is prejudiced to the interest of the Defendant Nos. 8 to 10. The said apprehension is absolutely legible (it should be legitimate).

4. It is contention of learned counsel for the Petitioner that it shows that the trial Court has considered that there is collusion between Petitioner and Respondent except Respondent Nos. 8 to 10. If the trial Court decide the matter on its own merit without influenced by his observations then appropriate order be passed.

5. The learned counsel for the Respondents and learned counsel for

the Respondent Nos. 9 to 11 submits that this court may pass appropriate order and the rights and contentions of Respondent Nos. 9 to 11 to be kept open and it be decided in the pending suit.

6. I have heard learned counsel of all the parties considering their submissions. I pass following order.

ORDER

- i. Writ Petitioner is partly allowed.
- ii. The learned trial Court shall not be prejudiced the observations made by him in the impugned order and proceed with the matter on its own merits.
- iii. Petition disposed of.

(S. G. DIGE, J.)