

Pallavi

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8365 OF 2021

Santram Dashrath Mangaonkar	...Petitioner
Versus	
Dashrath Maruti Mangaonkar	...Respondent

- Mr. Balasaheb Deshmukh, for the Petitioner.
- Mr. R.S. Datar i/b. Mr. Rupesh T. Padwal for the Respondent.
- Mr. Santram Dashrath Mangaonkar, Petitioner present.
- Mr. Dashrath Maruti Mangaonkar, Respondent present.

**CORAM : MADHAV J. JAMDAR, J.
DATE : 20th JULY, 2023**

P.C.:

1. The present Petition has been filed by the defendant in L.E. Suit No.60/67 of 2014 pending before the Small Causes Court at Mumbai.
2. In the present Petition, the challenge is to the impugned order dated 24th September 2021 passed on application below Exh.38 filed by the Petitioner i.e. the defendant. The said application was filed under section 10 of the Civil Procedure Code, 1908 for stay of the said Small Causes Court suit in view of pendency of suit in City Civil Court.
3. After arguing the matter for sometime, both the parties have arrived at some agreed arrangement. The said arrangement is reflected in Minutes of Order dated 20th July 2023. The said Minutes of Order are

signed by the Petitioner and the Respondent who are personally present in Court and also learned Advocates appearing for the respective parties. Respondent – Dashrath Maruti Mangaonkar who is personally present in Court states that contents of Minutes of Order are explained to him in ‘Marathi’ by learned Advocate Mr. Rupesh Padwal and he has agreed for the same. Mr. Santram Dashrath Mangaonkar i.e. the Petitioner who is personally present in Court states that he has gone through the Minutes of Order and he is consenting for the same. Both the parties have kept the period as reflected in paragraphs 8 and 9 of the Minutes of Order ‘**blank**’ and requested this Court to issue appropriate direction. The said period in paragraphs 8 and 9 will be ‘**15 months**’. The said Minutes of Order are taken on record and marked ‘**X**’ for identification. The said Minutes of Order read as under :-

“MINUTES OF ORDER

1. By consent of the parties, matter is taken up for final hearing at the admission stage.
2. The petitioner here is Original Defendant and the Respondent here is the Original Plaintiff in L.E. Suit No.60/67 of 2014 filed for Eviction before Ld. Small Causes Court, Bombay & also in S.C. Suit no.590 of 2014 before the Ld. City Civil Court at Bombay.
3. The petitioner is challenging the Judgment and order dated 24th September 2020 passed by the Ld. Small Causes Court Bombay, on Application below Exhibit-38 in L.E. Suit No. 60/67 of 2014 whereby the Application filed by the Petitioner

herein under Section 10 of Civil Procedure Code for stay of L.E. Suit No.60/67 of 2014 was came to be rejected.

4. By consent of the parties, the impugned judgment and order dated 24th September 2020 passed by the Ld. Small Causes Court on Application below Exhibit-38 in L.E. Suit No.60/ 67 of 2014 is hereby set aside.
5. The suit filed by the Respondent herein bearing S.C Suit no.590 of 2014 for declaration and Injunction is pending before the Ld. City Civil Court, Bombay. In the said Suit, the Evidence of the Plaintiff is over and the evidence of the Defendants Witness No.1 is also over. Considering the controversy in the matter, the Petitioner (who is the Original Defendant in the said Suit) is intending to examine five witnesses in support of his case.
6. The parties have agreed and confirmed that till the Final decision of the S.C. Suit no. 590 of 2014, pending before the Ld. City Civil Court, Bombay, the L.E. Suit filed by the Respondent bearing i.e., L.E. Suit No. 60/67 of 2014 pending before the Ld. Small Causes Court, Bombay shall remain stayed.
7. The Parties shall not seek any unnecessary adjournment or prolong the hearing of the both Suits i.e., S.C. Suit No.590 of 2014 as well as in L.E. Suit No.60/67 of 2014 except for some unforeseen reason beyond the control of the parties.
8. It is agreed and confirmed by the Both the parties that being senior citizen, Respondent (Orig. plaintiff in suit i.e. S.C. Suit no.590 of 2014 filed before Ld. City Civil Court, Bombay), both the parties shall co-operate to the Ld. Trial court for early disposal of the said Suit and the Ld. Trial Court is

requested to dispose of the said suit more particularly S.C. Suit no.590 of 2014 within a period of **15 months** from the date of production of these of this minutes of order along with the order passed this Hon'ble Court in the present matter before the Ld. Trial court.

9. It is also agreed and confirmed by the both the parties that the being senior citizen, Respondent (Orig. plaintiff in suit i.e., L.E. Suit no. 60/67 of 2014 before Ld. Small Cause Court, Bombay) where in Respondent herein above filed his examination in chief, list of documents and Petitioner herein above also filed his say on the documents. Now both the parties shall co-operate to the Ld. Trial court for early disposal of the said Suit and the Ld. Trial Court is requested to dispose of the said suit more particularly L.E. Suit no. 60/67 of 2014 within a period of **15 months** subject to the order if any passed in First Appeal filed for challenging Judgment and decree passed in S.C. Suit No.590 of 2014 that may be filed by the parties if any.
10. All the contentions on merits of both the above mention suits are expressly kept open.
11. In view of the above minutes of the order, the Writ petition is disposed of and no order as to costs."

4. Accordingly, the Writ Petition is disposed of in terms of the Minutes of Order with no order as to costs.

[MADHAV J. JAMDAR, J.]