

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 199 OF 2023

Niti Ajeet Arenja and Anr.

.. Petitioners

Versus

Veena Ashok Thapar

.. Respondent

-
- None for Petitioners
 - Mr. Swapan Samdani for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 20, 2023.

P.C.:

1. Heard Mr. Samdani, learned Advocate for Respondent.

None for Petitioners.

2. On 13.11.2022 this Court has passed the following order:-

"1. Heard Ms. Moosa, learned Advocate for Petitioners.

2. Perused the impugned order dated 19.12.2022 passed by the 1st Additional Principal Judge under Exh.07 which is an Application filed on behalf of the Defendant (Respondent herein) before the Trial Court for seeking an adjournment. The learned Trial Court has in fact referred to the pleadings in the plaint and instead of passing order in the Application below Exh.07, has directed impleadment of a third party namely one Ms. Angellina as Defendant to the suit.

3. Ms. Moosa would submit that the suit has been filed by the Plaintiffs (Petitioners herein) for seeking an injunction against the sole Defendant and Plaintiffs do not have any grievance against Ms. Angellina.

4. While passing the impugned order the learned Judge has referred to Mediation proceedings and it appears that at the then time the Mediation process was underway between the parties.

5. Ms. Moosa today submits that the Mediation proceedings have failed and the learned Mediator has given his report just yesterday.

6. Hence, issue notice to Respondent. Humdast permitted. In addition to Court's notice Petitioners are directed to serve Respondent and inform her about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. After receiving notice, Respondent to file affidavit-in-reply, if any, on or before the next date.

7. It is clarified that after service, if none appears for the Respondent, Writ Petition shall be disposed of on the next date.

8. Stand over to 20th January, 2023."

3. In his usual fairness Mr. Samdani would submit that admittedly the Application below Exhibit-7 filed by the Defendants before the learned Trial Court was for seeking an adjournment and it ought to have been decided for the same reason. Though Mr. Samdani has asked me to read the plaint in order to confirm the nexus with Ms. Angellina, however I am not inclined to do so especially in view of the fact that the application before the learned Trial Court was for a very specific reason which ought to have been tested one way or the other.

4. The observations of the learned Trial Court regarding impleadment, though seen from the proceedings between the parties, the learned Trial Court ought not to have allowed the impleadment of the daughter of the Defendant without there being any specific application for the same.

5. In that view of the matter, the impugned order dated 19.12.2022 deserves to be set aside and the parties are relegated before the learned Trial Court for consideration of the Notice of

Motion No. 520 of 2020 as per the convenience of the learned Trial Court.

6. With the above directions, the impugned order dated 19.12.2022 stands quashed and set aside.

7. Writ Petition disposed.

8. It is clarified that this Court has not made any observations with respect to the impleadment of the daughter and in the event if any application is made in future by any of the parties, the same shall be dealt with on its own merits and strictly in accordance with law. The Trial Court also shall not be influenced by any of the observations in the impugned order which stands set aside.

[MILIND N. JADHAV, J.]

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