



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

10 WRIT PETITION NO. 6542 OF 2024

THE OFFICE SUPERINTENDENT GURUDWARA TAKHAT SACHKHAND
BOARD

VERSUS

SANDEEP SURESH NANDEDKAR AND OTHERS

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Shri Mandlik Pratap Pravin, Advocate for the Petitioner

CORAM : Y. G. KHOBRAGADE, J.

DATE : 23rd September, 2024

ORDER:

1. Heard Shri Mandlik, the learned Advocate appearing for the Petitioner at length.

2. By the present Petition, the Petitioner is challenging the order dated 11.03.2022 passed below Exh.90, thereby permitted the Respondent No.1/Ori. Plaintiff to transpose the Respondents 2 & 3 /Ori. Plaintiff Nos. 2 and 3 as the Defendant Nos. 2 and 3.

3. The present Respondent Nos. 1 to 3 are the original plaintiffs and the present Petitioner is the Defendant in Special Civil Suit No.16 of 2017. For the sake of brevity, parties to the present Petition will be referred in their original capacity. The Plaintiffs have filed Special Civil Suit No.16 of 2017 and prayed for decree of recovery against the Defendant (present Petitioner) to the tune of Rs.12 lakhs with interest @ 18% p.a. During the pendency of the suit, on 09.09.2021, the learned

Trial Court passed an order below Exh.1 and dismissed the suit as against original Plaintiff Nos 1 and 2/present Respondent Nos. 2 and 3. Subsequently, the Plaintiff No.1 filed Exh. 90- an application under Order 1 Rule 10 r/w Sec, 151 of the Civil Procedure Code and prayed for permission for transposition of the Plaintiffs/ Respondent Nos. 2 & 3 as Defendant Nos. 2 and 3. The Respondent No. 1/plaintiff contended that, the Ori. Plaintiff Nos. 2 & 3 withdrew themselves from the suit, otherwise their leave and license of their tenanted shop would not be renewed and they have no interest to proceed with the suit.

4. Needless to say that, in the year 2008, the Plaintiff no. 1 was interested to run business and Shop no. 33 at Bandanshigh Bankhadur Market, Nanded owned by the Defendant no. 1 Trust/landlord was vacant, therefore, the plaintiff no. 1 approached the defendant no. 1 for tenancy of said shop. Since said shop was in dilapidated conditions and estimate cost for repair of said shop was about 18,00,000/- to 20,00,000/- but said shop situated in crowded area, therefore, the plaintiff no. 1 shown desire to take said shop on rent. Accordingly, the plaintiff no. 1 had agreed to pay Rs. 10,000/- towards monthly rent and to give deposit of Rs. 2,50,000/-. But subsequently, the plaintiff suffered loss and as such the Plaintiff nos. 2 and 3 who are running cloth shops just opposite to the shop of plaintiff no. 1 shown interest for expansion of their bussiness. Therefore, some transaction took place between the plaintiff no. 1 & the defendants 2 & 3, who have invested huge amount for repair and beautification of shop no. 33. But due to

custom, tradition and procedure as well as policy of the Defendant no. 1 Trust, no such permission was granted for the considerable period. The plaintiffs further pleaded that, under the internal correspondence it came to know about tenancy transfer fees of Rs. 16,00,000/-. Though the Plaintiff no. 1 invested Rs. 9,00,000/- and Plaintiff nos. 2 & 3 invested Rs. 3,00,000/- but no shop No. 33 given to them by the Defendant, therefore, prayed for decree of recovery of Rs. 12,00,000/-.

5. Needless to say that, the plaintiffs 2 & 3 withdrew themselves from suit and necessary amendment has been carried out. Since the plaintiff no. 1 alongwith the plaintiffs nos. 2 & 3 had filed suit for recovery but subsequently the plaintiffs 2 & 3 withdrew themselves and as such the plaintiff no. 1 wanted to proceed with the suit against them a by impleading the Defendants. Since the plaintiff No.1 stated on oath about the denoting interest between him and the Ori. Plaintiffs 2 & 3 become hostile, therefore, the trial Court passed the impugned order and permitted the Plaintiff no. 1 for transposition of the Plaintiff Nos. 2 and 3 as Defendant Nos. 2 and 3. Therefore, right of the present petitioner/Ori. Defendant can not said to be prejudiced. In view of discussion, I do not find substantial ground to interfere with the impugned orders, hence, this writ Petition is dismissed.

(Y. G. KHOBRADE, J.)