

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4053 OF 2017

Rahul Vasantlal Lodha

.. Petitioner

Versus

Bin Hussain Stud Farm Pvt. Ltd. and Ors.

.. Respondents

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- Mr. Pritesh Burad a/w. Ms. Shriya Sardal and Mr. Shreyash Moharir i./by M/s. Pritesh Burad Associates, Advocates for Petitioner.
- Mr. Avinash Joshi a/w. Mr. Shivam Chitlangia i./by Mulla and Mulla & Craigie Blunt and Caroe, Advocates for Respondent No.1.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 31, 2024

P.C.:

1. Heard Mr. Burad, learned Advocate for Petitioner and Mr. Joshi, learned Advocate for Respondent No.1.

2. The present Writ Petition takes exception to the twin orders dated 31.12.2015 and 05.01.2017 passed below Exhibit-78 and Exhibit-98 respectively by the learned Civil Judge Senior Division, Pune allowing the Application of the Defendant No.1 permitting him to lead secondary evidence and to allow Plaintiff's Application to allow Defendant No.1 to begin witness action.

3. Mr. Burad, learned Advocate for Petitioner would submit that in the proceedings before the Trial Court, the case of Plaintiff is supported by Defendant Nos.1 and 3 and in that view of the matter the aforesaid orders came to be passed.

4. He would submit that Defendant No.2 whom he represents

is the only contesting Defendant before the Trial Court.

5. Considering the provisions of the Civil Procedure Code, 1908 the Plaintiff is directed to lead witness action at the outset followed by any Defendant/s who supports the Plaintiff's case. Only when aforementioned witness action is completed, Defendant No.2 who is opposing the Plaintiff's case shall lead his evidence in rebuttal. Both the parties shall follow due process of law and learned Trial Court shall also follow procedural safeguards in accordance with law.

6. With the above directions, both the impugned orders stand quashed and set aside without opining anything on merits of the matter.

7. It is impressed upon the Trial Court not to be influenced by any observations made in this order, or in the twin orders and decide the original suit filed in the year 2008 which was after its transfer renumbered as Suit No.27 of 2022 strictly in accordance with law and preferably within a period of six months from today. Parties to the suit are directed by this Court not to seek adjournments and the learned Trial Court shall not give unnecessary adjournments to the parties unless absolutely necessary.

8. With the above directions, Writ Petition is disposed.