

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14906 OF 2023

Shree Packaging

.. Petitioner

Versus

M/s. Sparkle Glass Pvt Ltd & Ors.

.. Respondents

-
- Mr. Ameya V. Khot i/by M/s. Legal Vision for Petitioner

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 02, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 02.04.2024. Heard Mr. Khot, learned Advocate for Petitioner.
3. Summary Suit is filed seeking recovery before the learned Trial Court in the year 2018. Though the order granting leave to defend is under challenge in the present Writ Petition arising out of Summons for Judgment, Mr. Khot would submit that the trial in the Summary Suit is protracted. He would submit that the Summons for Judgment decreed the amount of Rs. 80.97 Lacs together with further interest, however the grievance of Petitioner is only that the case of Petitioner has not been appreciated while granting unconditional leave to defend.

4. I have perused the impugned order dated 17.04.2023 which is at Exh. A, page Nos. 25-32 of the Writ Petition. Learned Trial Court has in paragraph No.5 onwards delineated the defence raised by Defendants in all material details. However, Mr. Khot would submit that rather than this Court appreciating or opining on the appreciation of the defence by the learned Trial Court while granting unconditional leave, it would be in the interest of justice if appropriate directions are passed for determination of Summary Suit No. 197 of 2018 as expeditiously as possible without opining on merits so that it may not influence the decision of the learned Trial Court. The suggestion given by Mr. Khot appears to be fair and is therefore accepted by the Court. Order dated 17.04.2023 is sustained without opining on merits.

5. Without commenting upon the merits of the impugned order granting unconditional leave to defend to the Defendants, learned Trial Court is directed by this Court to dispose of Summary Suit no. 197/2018 as expeditiously as possible and in any event within a period of six months from today. Parties shall co-operate with the Trial Court and shall not seek unnecessary adjournments unless absolutely necessary due to certain emergency or exigency. All contentions of the parties are expressly kept open.

6. Copy of this order shall be served upon the Respondents by Mr. Khot.

7. I am informed that the next date before the learned Trial Court is 27.06.2024. In that view of the matter, both the parties are directed to appear before the learned Trial Court seized of Summary Suit No. 197 of 2018 on 26.04.2024 at 11:00 a.m. along with a server copy of this order and place the same before the learned Trial Court. On placing this order before the learned Trial Court, learned Trial Court is directed to determine the schedule for determination of Suit as per its convenience by adhering to the aforementioned time frame. The directions contained in paragraph Nos. 4, 5 and 7 of this order are for the proceedings in the Civil Suit No. 2057 of 2023 as Summary Suit No. 197 of 2018 has been converted by the learned Trial Court into Civil Suit No. 2057 of 2023.

8. It is clarified that this Court has not opined anything on merits of the matter. Learned Trial Court is directed not to be influenced by any of the findings returned in the judgment dated 17.04.2023 which is the subject matter of challenge in the present Writ Petition as those findings are *prima facie* in nature.

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

[MILIND N. JADHAV, J.]

Amberkar

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2024.04.12
18:29:23 +0530