

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2673 OF 2024

Anita Bernadine Lewis

.. Petitioner

Versus

Naresh Chandu Tekdikar and Ors.

.. Respondents

.....

- Mr. Kishor Patil a/w. Mr. Amar Gharte, Advocates for Petitioner.

.....

CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 14, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Patil, learned Advocate for Petitioner.
- 3.** Perused the praecipe dated 14.08.2024 and the Writ Petition.
- 4.** The timeline in the present case is such that the present Writ Petition can be disposed of by passing the following directions / order.
- 5.** Suit is filed seeking specific performance of an Agreement executed in the year 2013 and nomenclatured as Regular Civil Suit No.496 of 2013. Even after passing of 11 years, application below Exhibit-5 is still pending and not decided. One of the grievance made by Defendant who is the Writ Petitioner before me is that despite the said Application having been argued several times, no order has been

passed therein till date. The aforesaid delay in all probability has propelled the Plaintiff to file Application under Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (for short '**CPC**') below Exhibit-24. An ad-interim order was passed in this Application which was taken exception to by Defendant. Defendant being aggrieved filed Application below Exhibit-32 for setting aside of the said ad-interim order. That Application of the Defendant is rejected and hence he is before me. The only grievance of Defendant is that without disposing of Exhibit-5 Application despite it been heard several times, ad-interim order in Application below Order XXXIX Rule 3 of the CPC is not warranted. From the above, it is seen that application below Exhibit-5 deserves to be heard as expeditiously as possible and directions are required to be given even for disposal of the suit proceedings which itself is pending for the last 11 years.

6. In view of the above, the impugned order which is an ad-interim order dated 02.01.2021 passed below Exhibit-24 stands quashed and set aside with a specific direction to the learned Trial Court to hear the parties on the next adjourned date or any date as per Court's convenience and dispose of Exhibit-5 Application in Regular Civil Suit No.496 of 2013 within a period of four weeks from the date on which it is heard by passing a speaking order. If required the hearing of Exhibit-5 shall be commenced and concluded on a day to day basis depending upon the convenience of the Court. Learned Trial

Court is also directed to decide Regular Civil Suit No.496 of 2013 as expeditiously as possible and in any event within a period of six months from today strictly in accordance with law. Parties are directed to co-operate with the learned Trial Court. Trial Court is directed not to give adjournments to the parties and to give adjournments only if they are utmost necessary due to any emergency or exigency. All contentions of both parties to the suit proceedings are expressly kept open without opining on any merits of the case.

7. With the above directions, Writ Petition stands disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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