

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 16 OF 2024

Maharashtra State Electricity Transmission
Company Ltd.

.. Applicant

Versus

Atmaram Aanaji Palav and Anr.

.. Respondents

-
- Ms. Riya John i/by Mr. Ashok T. Gade, Advocate for Applicant.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 10, 2024.

P.C.:

- 1.** Heard Ms. John, learned Advocate for Applicant.
- 2.** At the outset, Ms. John seeks leave to amend and add the name of Defendant No.2 in the present Civil Revision Application as Respondent No.2. Leave to amend is granted. Amendment to be carried out forthwith. Re-verification stands dispensed with.
- 3.** Civil Revision Application is taken up for hearing. Ms. John has drawn my attention to the impugned order passed below Exhibit “22” in Regular Civil Suit No.47 of 2020. Suit is filed by the Respondents before me who are the Plaintiffs before the Trial Court seeking injunction and compensation for damages. In that Suit, the Applicant filed Application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short “CPC”) for rejection of the plaint on

the ground that there is express bar under the provisions of Section 145 of the Electricity Act, 2003 for maintainability of a Suit for seeking compensation and injunction against the Applicant as also on the ground that compensation was already paid to the Defendant No.2 who is brother of Plaintiff which is evident from page No.32 of the Civil Revision Application.

4. The issue of jurisdiction was expressly pleaded by the Applicant. However, the learned Trial Court has held that for seeking rejection of the Suit plaint mere pleadings of the Applicant who is the Defendant No.1 in the Suit proceedings cannot be relied upon and on considering the contents of the Suit plaint though the learned Trial Court has come to the conclusion that relief of injunction cannot be claimed against the Applicant but the relief of compensation needs to be considered and therefore on that ground the plaint cannot be rejected in part and hence the Application filed by the Applicant is rejected.

5. Ms. John would submit that original Suit was filed by Atamaram Aanaji Palav against the Applicant but subsequently he has impleaded his own brother as Defendant No.2 in the Suit presumably because he was infact recipient and beneficiary of the compensation amount given by the Defendant No.1.

6. On the basis of the submissions made by Ms. John, an

arguable case has been made out for issuance of notice and stay of the impugned order. This dispute would only be between the two brothers for compensation and such a suit against the Applicant is not maintainable at all.

7. The impugned order dated 09.06.2023 is therefore expressly stayed.

8. Hence, issue notice to the Respondents. Humdast permitted.

9. In addition to Court notice, Applicant is permitted to serve a copy of the Civil Revision Application and this order on the Respondents and inform them 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.

10. Respondents are directed to remain present in Court on the next adjourned date either by themselves or through Advocates.

11. Respondents are directed to file their Affidavit-in-Reply on or before the next date.

12. It is clarified that, the present Civil Revision Application shall be disposed of on the next adjourned date at the stage of admission itself.

13. Stand over to **24th January, 2024.**

[MILIND N. JADHAV, J.]