

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

WRIT PETITION NO.15082 OF 2022

Nikhilesh Kesrichand Jhaveri & Ors.Petitioners
V/S
M/s. Johnson Dye Works Private Limited & Ors.Respondents

**WITH
WRIT PETITION NO.1801 OF 2024**

Johnson Dye Works Private Ltd.Petitioner
V/S
Nikhilesh Kesrichand Jhaveri & Ors.Respondents

Mr. Sean Wassoodew a/w Mr. Ashra Shah for the Petitioner in WP 1801 of 2024.
Mr. Vishal Narichania i/b Ms.Sushma Singh for the Petitioner in WP 15082 of 2022.
Mr. Sean Wassoodew a/w Mr. S.R. Ingule and Mr. Ashra Shah for Respondent No.1 in WP 15082 of 2022.
Mr. Vishal Narichania i/b Mr. Neel A. Gala for Respondent Nos.1 to 3 in WP 1801 of 2024 .

CORAM: SANDEEP V. MARNE, J.
DATE : 12 JUNE 2024.

P.C.:

1 Writ Petition No.15082 of 2022 is filed by the contesting Defendants in RAE Suit No.965/1427 of 2010 challenging order dated 13 September 2022 by which they were permitted to cross-examine the witness of the Plaintiff only on law points. Also challenged is the order dated 12 September 2022 by which

the Application filed by the contesting Defendants for seeking certain documents for conducting effective cross-examination of Plaintiff's witness came to be rejected. The main reason for passing of order dated 13 September 2022 on application at Exhibit-181 and order dated 12 September 2022 on application at Exhibit-182 is on account defence of the contesting Defendants being struck off on account of failure to pay water charges as directed by the Court of Small Causes under Order XV-A of the Code of the Civil Procedure (Code). In Writ Petition No.12584 of 2022 decided on 16 April 2024, this Court has already set aside order dated 15 July 2015 of the Small Causes Court and order dated 12 July 2021 passed by its Appellate Bench which had directed payment of water charges by the contesting Defendants under Order 15A of the Code.

2 In any case, it appears that subsequently the contesting Defendants are permitted to cross-examine the Plaintiff's witness both on points of law as well as on facts of the case by order dated 18 January 2024, which is subject matter of challenge in Writ Petition No.1801 of 2024 filed by the Plaintiff.

3 In view of the judgment and order dated 16 April 2024 passed by this Court in Writ Petition No.12584 of 2022 and also in the light of disposal of the Special Leave Petition by the Apex Court by order dated 7 June 2024 challenging the said judgment, Mr. Wassoodew, the learned counsel appearing for the Petitioner in Writ Petition No.1801 of 2024 seeks leave to withdraw the same. The Writ Petition No.1801 of 2024 is accordingly disposed of as withdrawn.

4 So far as Writ Petition No.15082 of 2022 is concerned, in my view nothing would survive in the said Petition as the contesting Defendants are already permitted to cross-examine the Plaintiff's witness both on law points and facts of the case. Challenge to the order dated 13 September 2022 therefore no longer survives. So far as order dated 12 September 2022 on Application at Exhibit-182 is concerned, the Defendant Nos.6 to 8 shall be at liberty to apply to the Small Causes Court for production of any document needed for conduct of cross-examination of the Plaintiff's witness. Such application, if filed, shall be decided on its own merits by the Small Causes Court. Therefore, nothing remains to be adjudicated in Writ Petition No.15082 of 2022 and the same is also disposed of.

(SANDEEP V. MARNE, J.)