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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4803 OF 2024

Halima Sultan Alowais	Petitioner
Through POA Kenn Rickham Wilson	.. (Orig. Plaintiff No.3)
Versus	
Hussain Mohammed Humaid Shattaf and Ors.	.. Respondents

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- Mr. Aayush Kedia, Advocate for Petitioner.
 - Mr. Ashwin Shete a/w. Mr. Yash Pandya and Mr. Rohit Jain i/by Jayakar & Partners for Respondent Nos.1 to 3.
 - Mr. Sushil C. Matkar, Advocate for Respondent Nos.4 to 14.
 - Mr. Y.D. Patil, AGP for Respondent No.15 – State.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 03, 2024.

P.C.:

1. Heard Mr. Kedia, learned Advocate for Petitioner; Mr. Shete, learned Advocate for Respondent Nos.1 to 3; Mr. Matkar, learned Advocate for Respondent Nos.4 to 14 and Mr. Patil, learned AGP for Respondent No.15 – State.

2. At the outset, Mr. Shete would submit that he has received instructions to appear on behalf of Respondent Nos.1 to 3. Equally, Mr. Patil, learned AGP appears for Respondent No.15 – State of Maharashtra. Their grievance is that the copy of the Writ Petition is not yet served.

3. A substantive challenge is maintained in the present Writ Petition to dismissal Application filed under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 (for short “**CPC**”) seeking dismissal of the original Suit proceedings. Application is filed after almost 16 years after filing of the Suit proceedings and the Suit is at the stage of cross-examination of the Plaintiffs when the Plaintiff No.1’s witness action was under progress. Be that as it may, Application has to stand or fail on its own merits. There are certain legal issues involved which will have also have to be deliberated.

4. At the outset, Mr. Kedia seeks leave to amend in order to annex certain pages which are found to be missing in the Writ Petition. Leave to amend is granted. Amendment is permitted to be carried out within a period of one week from today. After amendment is carried out, Mr. Kedia is directed to serve the amended copy of the Writ Petition on all the Respondents. Registry of this Court is directed to allow the Petitioner to carry out the necessary amendment in the Court record within a period of two weeks from today. Re-verification stands dispensed with.

5. After Respondents are served with the copy of the Writ Petition, they are directed to file their Affidavit-in-Reply, if so desired to the Writ Petition within a period of three weeks from today.

6. In the meanwhile, since this Court is seized with the present Writ Petition with respect to maintaining a challenge under Order VII Rule 11 of the CPC, the learned Trial Court is requested by this Court to defer the hearing of the Suit proceedings on the next adjourned date which is 06.04.2024 and enable this Court to dispose of the present Writ Petition.

7. It is clarified that, this Writ Petition shall be disposed of on the next adjourned date at the time of admission itself and if the Respondents are served and do not remain present on the next adjourned date despite being served, this Writ Petition shall be disposed of after hearing the Petitioner in accordance with law.

8. Stand over to **29th April, 2024 at 02:30 p.m.**

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[MILIND N. JADHAV, J.]

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