

Ajay

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

WRIT PETITION NO. 5063 OF 2024

M/s. Sai Shardha Plumbing Systgem Pvt. Ltd.
and Anr.

.. Petitioners

Versus

Manju Gullu Yadav

.. Respondent

-
- Ms. Prabha Badadare, Advocate for Petitioners.
-

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 16, 2024.

P.C.:

1. Heard Ms. Badadare, learned Advocate for Petitioners – Defendants.

2. Ms. Badadare would draw my attention to the order dated 19.03.2024 passed in Application filed below Exhibit “18” in SCS No.37 of 2020 and would contend that by virtue of the impugned order, Defendants have been denied the right of leave to defend unconditionally on merits. She would submit that it is the Plaintiff's case that the Plaintiff being a sub-contractor of the Defendants was committed to do and undertake job of fire protection at various sites belonging to the Defendants namely at Kalyan, Bhandup, Mulund and Wadala and in lieu thereof raised bills and invoices totalling to Rs.33,00,459/- in respect of work done. She would submit that in the

Suit plaintiff the Plaintiff has agreed and admitted receipt of an amount of Rs.7,65,000/- from the Defendants and for the balance amount filed the present Suit before the learned Trial Court for recovery of Rs.25,35,459/-.

3. *Prima facie*, it is gathered from the pleadings that there is a relationship between the parties. Plaintiff is the sub-contractor whereas the Defendants are contractors. Though the learned Advocate for Petitioners would argue on the veracity of the invoices appended to the Suit plaintiff, at this juncture, in a Suit for recovery, this Court would not like to comment on merits as all that would be a matter of evidence. *Prima facie*, I am satisfied that there was a relationship between the parties at least from the documents appended to the Suit plaintiff and the fact that Defendants – Petitioners have made part payment of the amount to the Plaintiff.

4. Ms. Badadare has drawn my attention to the Application dated 29.08.2023 filed below Exhibit “18” and would contend that the Defendants have a substantial defence and the claim of the Plaintiff is vague and not supported by any documentary evidence. She would also contend on the veracity of the invoices appended to the Suit plaintiff.

5. In view of the above, I need to hear the Plaintiff i.e. Respondent before me if I have to consider the impugned order dated

19.03.2024 in the wake of the Application filed below Exhibit “18”.
Needless to state that Petitioners – Defendants shall give appropriate instructions for deposit of reasonable amount in the Court, if they desire to obtain leave to defend, without prejudice to their rights and contentions.

- 6.** Hence issue notice to the Respondents. Humdast permitted.
- 7.** In addition to Court notice, Petitioners are permitted to serve a copy of the Petition and this order on the Respondent and inform 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.
- 8.** Respondent is directed to file her Affidavit-in-Reply on or before the next date, if so desired.
- 9.** It is clarified that, this Writ Petition shall be disposed of on the next adjourned date at the stage of admission itself.
- 10.** Stand over to **23rd April, 2024**.

[MILIND N. JADHAV, J.]

Ajay