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

WRIT PETITION NO. 6164 OF 2024

Raakesh Rajendrakumar Agarwal	.. Petitioner
Versus	
Rameshwar Kashinath Mhatre and Ors.	.. Respondents

WRIT PETITION NO. 6032 OF 2024

Raakesh Rajendrakumar Agarwal	.. Petitioner
Versus	
Rameshwar Kashinath Mhatre and Ors.	.. Respondents

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- Mr. Narendra Walawalkar, Senior Advocate a/w. Mr. Kishor Patil, Mr. Amol Mhatre and Mr. Sameer Mhatre, Advocates for Petitioner.
 - Mr. Shishir S. Joshi, Advocate i/by Ms. Priti Joshi, Advocate for Respondent No.1 in both the Petitions.
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CORAM : MILIND N. JADHAV, J.
DATE : APRIL 25, 2024.

P.C.:

1. I have heard Mr. Walawalkar, learned Senior Advocate for the Petitioner and Mr. Joshi, learned Advocate for Respondent No.1 in both the Petitions on the facts of the present case.

2. There are two Writ Petitions, namely Writ Petition No.6164 of 2024 which impugns order dated 07.03.2024 and Writ Petition No.6032 of 2023 which impugns twin orders with respect to allowing amendment viz; order dated 15.06.2023 passed below Exhibit “130” and order dated 24.01.2024 passed below Exhibit “197”.

3. After hearing the learned Advocates and perusing the pleadings, Writ Petition No.6164 of 2024 can be conveniently disposed of. It is seen that the present controversy has been raised between the parties with respect to certain intervening circumstances which have occurred after filing of the Suit in the year 2007.

4. Both the learned Advocates are *ad idem* that as on date, there are three interlocutory Applications namely Applications below Exhibit Nos. “202” and “207” as also the Plaintiffs’ Exhibit “5” Application which are pending hearing before the Court. That apart, Mr. Joshi would submit that Plaintiff desires to file a further Application under the provisions of Section 94(1) (c) and (d) read with Order XXXIX Rule 2(a) of the Code of Civil Procedure, 1908.

5. It is submitted by Mr. Joshi that in view of the previous order of stay of the Suit proceedings passed by this Court staying the Suit proceedings in Writ Petition No.6032 of 2024, the learned Trial Court is restrained from hearing the Suit proceedings or any interlocutory Application therein.

6. In view of the above, the issue can be resolved by directing the learned Trial Court to hear the aforementioned three interlocutory Applications namely Application below Exhibit “5”, Exhibit “202” and Exhibit “207” alongwith the fresh Application desired to be filed by the Plaintiff as stated herein above by vacating the restraint placed on the

learned Trial Court.

7. Mr. Joshi, learned Advocate for the Plaintiff would submit that the fresh Application desired to be filed by the Plaintiffs shall be filed within one week from today. Copy of the same shall be served on the Defendants within one week.

8. In view of the above, it is directed that learned Trial Court shall hear and determine the aforementioned four Applications as stated herein as expeditiously as possible and preferably before 10.05.2024.

9. Parties are directed to appear before the learned Trial Court with the server copy of this order tomorrow i.e. on 26th April, 2024 at 11:00 a.m.

10. All contentions of both the parties are expressly kept open. If parties desire to refer to and rely upon any additional documents, the same shall be accepted by the Trial Court and shall be served on the other side.

11. In view of the above order, the embargo placed by this Court on stay of the Suit proceedings stands vacated to the above extent. Writ Petition No.6164 of 2024 stands allowed and disposed of in the above terms.

12. Place Writ Petition No.6032 of 2024 on Board on **10th June, 2024.**

[MILIND N. JADHAV, J.]

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