

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

**WRIT PETITION NO. 8461 OF 2024
WITH
INTERIM APPLICATION NO. 9489 OF 2024
IN
WRIT PETITION NO. 8461 OF 2024**

Nikhilesh Keshrichand Jhaveri And Ors

... **Petitioners**

Versus

Johnson Dye Works Pvt. Ltd. And Ors.

... **Respondents**

Mr. Ashish Kamat, Senior Adv. With Mr. Nirman Sharma, Mr. Vishal Narichania i /b B. Amin & Co. for the Petitioner.

Mr. M. M Vashi, Senior Adv. i /b Mr. Sean Wassodew, for Respondent No.1.

Mr. Chetan Kapadia, Senior Ad. With Ms. Vidisha Rohira i /b Mr. Jaydeep Thakkar, for Respondent Nos. 2 to 7.

Mr. Chetan Kapadia, Senior Adv. with Ms. Amita Jasani & Mr. Xerxes Barucha i /b Purnanand & Co. for Respondent No. 8.

Dr. Abhinav Chandrachud with Ms. Unnati Ghia i /b Mr. Advait Tamhankar, for Respondent No.10.

CORAM : SANDEEP V. MARNE, J.

DATE : 10 SEPTEMBER 2024.

P.C. :

1) Mr. Kamat, the learned Senior Advocate appearing for Petitioners seeks leave to delete challenge to the Order dated 18 March 2024 passed by the learned Judge of the Small Causes Court on application at Exhibit 182 with liberty to file a separate Petition. Accordingly, the present Petition is confined to the orders dated 28 August 2023, 11 September 2023, 25 September 2023 and 8 April 2024. Petitioner would be at liberty to file a separate Petition challenging the Order dated 18 March 2024. All contentions of the parties about maintainability of such petition are kept open.

2) I have heard Mr. Kamat, the learned Senior Advocate appearing for Petitioner, Mr. Vashi, the learned Senior Advocate appearing for Respondent No.1/Plaintiff, Mr. Kapadia, the learned counsel appearing for Respondent Nos. 2 to 8 and Dr. Chandrachud, the learned counsel appearing for Respondent No.10.

3) After arguing the Petition, it is agreed by the learned counsels appearing for the parties that it is not necessary to record reasons for passing the present order. The Petitioners are essentially aggrieved by the denial of opportunity to complete cross-examination of PW 1 by the impugned Orders as well as to lead their own evidence in the suit. Mr. Vashi, while seeking to accuse Petitioner of delaying decision of the Suit, fairly agrees that Defendant Nos. 8 to 10 can be permitted to further cross-examine PW 1 within a fixed time frame. Considering the nature of grievance expressed in the Petition, parties agree that following Order be passed :

- a) Orders dated 28 August 2023 passed on application at Exhibit 166, Order dated 11 September 2023 passed on application at Exhibit 169, Order dated 25 September 2023 passed on application at Exhibit 170 and Order dated 8 April 2023 passed on application at Exhibit 198 are set aside.
- b) Petitioners, who are Defendant Nos. 8 to 10, are permitted to conduct further cross-examination of PW 1. Mr. Kamat, after taking instructions from his client, has made a statement that cross-examination of PW1 shall be conducted in three sessions without seeking any further time.
- c) Once the cross-examination of PW 1 is completed, Petitioners/Defendant Nos. 8 to 10 shall be at liberty to file their own evidence in the suit.
- d) Hearing of the suit has already been expedited by this Court vide Order dated 6 March 2020 passed in Writ Petition No. 12264 of 2019. The Trial Court shall accord due priority for expeditious decision of the suit.
- e) Considering fact that decision of the Suit has been delayed due to acts of Defendant Nos. 8 to 10, they shall pay costs of Rs. 5,00,000/- to Plaintiff within a period of three weeks from today.
- 8) With the above directions, Writ Petition is disposed of. In view of disposal of Writ Petition, Interim Application does not survive and the same is also disposed of.

[SANDEEP V. MARNE, J.]