

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8591 OF 2024

Vanita Amit Arora

.. Petitioner

Versus

Panjab Texcom

.. Respondent

-
- Mr. Drupad Patil i/by Mr. Nikhil N. Pawar for Petitioner

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 20, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 20.06.2024.
3. Heard Mr. Patil, learned Advocate for Petitioner.
4. Present Writ Petition takes exception to the order dated 02.08.2023 passed by the learned Trial Court in an Application below Exh. 16 in Summary Suit No. 106 of 2022. By the said order, the Applicant filed by Defendant (Respondent herein) for grant of leave to defend under O. XXXVII, R. 3(4) of the CPC came to be allowed subject to depositing bank guarantee for the suit amount.
5. Mr. Patil would submit that there was relationship between the parties such that predecessors in title of the Plaintiff and Defendant were running identical firms and the exchange of funds / monies between them were merely book entries which are not justified *qua*

the TDS interest payment made in relation to the said amount. He would therefore submit that Plaintiff filed the Suit seeking recovery of the outstanding amount shown in Plaintiff's books of accounts which are denied by Defendant. One principal defence is the fact that these were merely book entries created for business purposes and tax purposes as argued by Mr. Patil.

6. On the basis of the above, an arguable case is made out by Mr. Patil for issuance of notice. Hence, issue notice to the Respondent made returnable on 03.07.2024. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve copy of the Petition along with copy of 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. After receiving the notice, Respondent to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Petitioner.

7. Respondent is directed to remain present either through its authorized representative or through its Advocate on the next adjourned date. It is made clear that if Respondent remains absent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of the Respondent.

8. Mr. Patil would submit that the learned Trial Court has kept Summary Suit No. 106 of 2022 for judgment. Learned Trial Court is requested by this Court to defer the judgment till determination of the present Writ Petition.

9. Stand over to **3rd July, 2024.**

Amberkar

[MILIND N. JADHAV, J.]

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by RAVINDRA
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2024.06.20
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