

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.22287 OF 2024

Shree Narayan Logitech LLP and Ors.

.. Petitioners

Versus

Kasane Opal Pvt. Ltd. and Anr.

.. Respondents

.....

- Mr. V. S. Kapse a/w. N. S. Rajeshirke i./by Mr. Kunal Rane, Advocates for Petitioners.
- Mr. Rashmin Khandekar, Advocate for Respondents.

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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 06, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Kapse, learned Advocate for Petitioners.
- 3.** Perused the praecipe dated 06.08.2024 and the Writ Petition.
- 4.** By virtue of the impugned order dated 29.07.2024 passed below Exhibit-16 in Special Civil Suit No.127 of 2024, ad-interim relief has been granted by learned Trial Court to the Plaintiffs. Plaintiffs have filed suit recently seeking specific performance of summary of transactions executed with the Defendants. It is Defendants' case that said transactions involve suit property which is admeasuring 35 Acres and which stands in ownership and possession of the Defendants.

5. Mr. Kapse expressed grievance and apprehension that in view of the ad interim relief granted, *inter alia*, directing the parties to maintain *status quo*, Plaintiffs may enter into further transactions or deal with the suit property to the detriment and prejudice of the Defendants. This is all that he apprehends and nothing more. He would submit that Application below Exhibit-5 filed alongwith suit proceedings is also not heard.

6. One more grievance expressed by Mr. Kapse is that nature of transactions involved, *inter alia*, pertaining to the cause of action are commercial in nature and covered by definition of commercial disputes under Section 2(c) of the Commercial Courts Act, 2015. He would submit that in the impugned order, the learned Trial Court holds that suit will have to be transferred to the Commercial Court at Thane. He would submit that the suit has been filed by Plaintiffs in the Regular Civil Court at Bhiwandi.

7. Mr. Kapse would inform the Court that on the day on which the ad-interim relief was granted, in view of the above facts, Defendants filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short ‘CPC’) seeking transfer of the suit proceedings to the Commercial Court at Thane. That application is listed for hearing before the Trial Court on 17.08.2024. He would submit that if appropriate directions are given to the Court to hear that

application and determine the same in accordance with law, it would enure to the benefit of all parties. The suggestion made by Mr. Kapse is absolutely fair on face of record. Application filed under Order VII Rule 11 of the CPC seeking rejection of plaint and filing the plaint before the appropriate Court is directed to be heard by learned Trial Court on 17.08.2024 and thereafter pass a speaking order.

8. According to Mr. Khandekar, the submission advanced by the Petitioners is incorrect since it is the Plaintiffs who had raised for an order of *status-quo* against the Defendants in the Suit proceedings before the Trial Court because of an apprehension that the Defendants would create third party rights and it was on that basis the *status-quo* order dated 29.07.2024 was passed. He would next submit that the submission relating to the Trial Court holding that the Suit will have to be transferred to the Commercial Court at Thane has not been passed or even noted in the order dated 29.07.2024 and therefore the submission of the Defendants – Petitioners herein cannot be accepted.

9. Learned Trial Court shall take cognizance of this order. A server copy of this order shall be placed before the learned Trial Court tomorrow i.e. 07.08.2024 at 10:30 a.m to enable the learned Trial Court to determine its board position on 17.08.2024 so that the Application can be placed for hearing. Advocate for Petitioners is also directed to ensure that a copy of this order is served on Plaintiffs

immediately so that Plaintiffs are aware about the passing of this order and the fact that the learned Trial Court shall hear the Application under Order VII Rule 11 of the CPC on 17.08.2024. In view of the above, no further orders are required to be passed in the Writ Petition. Liberty to both the parties to apply before the learned Trial Court or this Court.

10. With the above directions, Writ Petition stands disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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