

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11430 OF 2024

Raheja QBE General Insurance Company Ltd. .. Petitioner

Versus

City Civil Court, Dindoshi .. Respondent

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- Mr. Bomi Patel a/w. Mr. Naval Sharma, Mr. Adithya Athreya and Ms. Mansi Tyagi i./by Tule & Co., Advocates for Petitioner.

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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 20, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Patel, learned Advocate for Petitioner.
- 3.** Perused the praecipe dated 20.08.2024 and the Writ Petition.
- 4.** The grievance is that the Trial Court i.e. City Civil Court, (Borivali Division), Dindoshi, Goregaon, Mumbai passed the impugned order dated 12.06.2024 in the suit which is titled as Fresh Commercial Suit filed by Plaintiff.
- 5.** Mr. Patel would submit that permission to lodge the suit has been refused despite the Petitioner – Plaintiff making a request to the Registrar by a specific letter dated 11.06.2024 which is appended at

Annexure - BBB, page No.260 of the Writ Petition.

6. He would submit that without the suit being lodged and without even hearing the Petitioner, the learned Trial Court has passed an oral order on 12.06.2024 on merits of the matter which are enumerated in paragraph No.3 of the said order.

7. According to Mr. Patel by virtue of notification dated 15.12.2018 bearing No.SPC-1316/C.R.14/IX, leave of Court is not required to be obtained for filing the Suit, which is an anti suit-injunction proceedings. That apart, he would submit that findings returned by the learned Trial Court in paragraph No.3 of the impugned order dated 12.06.2024 are passed purely on merits without even hearing the Petitioner. One of the issue reflected in the order is with respect to Section 12A of the Commercial Courts Act, 2015.

8. *Prima facie*, it is seen that suit is not even numbered. It is merely titled as a Fresh Commercial Suit and oral order dated 12.06.2024 is passed on merits by the Court without hearing the Plaintiff. In view of the above observations and findings which are borne out from the impugned order and the pleadings, the impugned order dated 12.06.2024 is not sustainable and is therefore quashed and set aside. It is clarified that this Court has not expressed any opinion on the merits of the Plaintiff's case.

9. The Registrar of the Trial Court is directed to register the suit

strictly in accordance with law. After registration of the suit, liberty to the Petitioner – Plaintiff to move the learned City Civil Court for seeking appropriate ad-interim / interim reliefs. It is only after hearing the Petitioner i.e. Plaintiff, learned Trial Court may pass a speaking order as deemed fit in law on the merits of the matter.

10. With the above directions and without opining on merits, Writ Petition is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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