

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15526 OF 2024

Amber Tours and Travels

}*Petitioner*

: *Versus* :

Kamlesh Singh Harnamsingh Chowhan

and anr.

}*Respondents*

Mr. Siddhesh Bhole a/w. Mr. Yakshay Chheda and Ms. Riddhi Natekar i/by.
SSB Legal and Advisory, for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

Dated : 11 November 2024.

P.C. :

1) Heard Mr. Bhole, the learned counsel appearing for the Petitioner/Defendant No.2. He invites my attention to the order dated 16 December 2023 by which opportunity was granted to Defendant No.2 to lead evidence. He would submit that such opportunity was granted on 16 December 2023 after full knowledge of the fact that Mr. Yogesh Damania had already filed two Affidavits of evidence on behalf of Defendant no.1. He would further submit that Defendant No.2 was granted opportunity to file Written Statement in September 2023 and therefore the evidence of Mr. Yogesh Damania recorded earlier by way of Affidavits at Exhibits-49 and 90 was on behalf of Defendant

No.1. He would therefore submit that both the Trial, as well as the Appellate Courts have grossly erred in giving weightage to the fact that Mr. Yogesh Damania has already led evidence twice for the purpose of rejecting the application for taking evidence of Mr. Yogesh Damania on behalf of Defendant No.2 on record.

2) Issue notice to Respondent No.1 returnable on 3 December 2024.

3) It appears that Defendant No.2 has been negligent in not filing Affidavit of evidence within the time stipulated in order dated 16 December 2023. His negligence has led to delay in decision of the suit and therefore even if relief is to be granted to the Petitioner in the present petition, the same cannot be without imposing exemplary costs. In that view of the matter, Petitioner/Defendant No.2 is directed to deposit Rs.50,000/- in this Court within a period of one week towards possible costs that may be imposed on him in the present petition. It is clarified that deposit of costs would be condition precedent for further entertainment of the present petition.

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[SANDEEP V. MARNE, J.]

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