

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

WRIT PETITION NO. 17329 OF 2024

The Rishabh Velvella Ltd.

... Petitioner

vs.

Indofill Industries Ltd.

... Respondent

Ms. Asha Chetan Shah :-	Advocate for Petitioner.
Mr. Aadil Parsurampuria a/w. Ms. Rhea Parkash and Mr. Vinay Khatri i/b. Gawford Bayley & Co. :	Advocates for Respondent.

CORAM : S. M. MODAK, J.

DATE : 9th DECEMBER 2024

P. C. :-

1. Heard learned Advocate for the petitioner/ Defendant and learned Advocate for the respondent/ Plaintiff. Earlier there was an order passed about recording of evidence of the Defendant through Court Commissioner. This order was passed when Suit is pending before this Court. This arrangement is continued for some time however entire evidence could not be recorded through Court

Commissioner. The reasons may be many but the trial Court as per the order dated 10th September 2024 has discharged the Court Commissioner and directed further cross-examination of the Defendant will be recorded physically in the Court. The order is on page No.17.

2. Whereas learned Advocate for petitioner has invited my attention to the prayers made in the Notice of Motion on Page No.119. Prayer talks about clubbing of the Suits. This prayer can be entertained by Principal Judge of City Civil Court. Prayer (b) talks about discharge of Court Commissioner. By the impugned order it is allowed. Prayer (c) talks about conducting further cross-examination of the Defendant by the Plaintiff through Video Conferencing or in Court premises. Whereas it is pointed out on behalf of Respondent that paragraph No.4 of the impugned order records consent of parties for allowing prayer clauses (b) and (c).

3. Learned Advocate for Petitioner has invited my attention to the averments in paragraph No.7 of the Affidavit which talks about his place of residence at Haridwar, Uttarakhand. Paragraph No.8 talks

about his health. It may be true also however, learned Advocate for respondent submitted that in fact the trial Court has fixed the matter for recording of the cross-examination by physical presence. But for some reason or other the petitioner/ Defendant could not attend. According to him, the same arrangement can be continued.

4. This Court is not aware about availability of internet connection for recording further cross-examination of petitioner at Haridwar. But if the Court recording further cross-examination by fixing timing this can be in the best interest of the parties. Let the same arrangement be continued and when the cross-examination is fixed, the learned Advocate can ascertain availability of the Petitioner and accordingly date and time can be fixed. The learned Advocate for respondent also assures that within two sessions the cross-examination can be completed. Even parties are at liberty to request trial Court for listing of the matter for two dates also.

5. The respondent try to complete cross-examination within two sessions. If not completed, certainly the trial Court may grant him time.

6. With the above observations I pass following order :

ORDER

- (i) Writ Petition is disposed of.
- (ii) There shall be no order as to costs.

[S. M. MODAK, J.]

KISHOR
VISHNU
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