



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2818 OF 2024

(Western Coalfields Ltd., (A subsidiary of Coal India Ltd.), Government
of India U/T Coal Estate, Nagpur, Thr. Its Chairman-cum-Managing
Director

Vs.

M/s Variety Polyesters, Thr. Its Director K.S.R. Murty s/o Krishnarao &
Ors.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.M. Ghare, Advocate for the Petitioner.
Mr. D.C. Daga, Advocate for the Respondent No.1.

CORAM: N.R. BORKAR, J.

DATED : 9th JULY, 2024

Heard.

2. This Petition takes exception to the order dated 21.02.2024 passed by the learned District Judge-2, Nagpur below Exh. 34 in Commercial Suit No.10/2018.

3. The Respondent No.1 herein has filed the suit for damages and recovery of amount of Rs.78,78,31,940/- against the Petitioner. The suit was initially filed before the Civil Court. According to the Petitioner, though certain documents were filed alongwith the plaint, however, photocopies of the said documents were not sent with suit summons and they were supplied later on. According to the Petitioner, this resulted in non-filing of written statement

within 90 days and consequently the order directing the suit to proceed without written statement was passed. It is stated that, after passing of the said order, an application was filed for setting aside the said order and grant of permission to file written statement.

4. According to the Petitioner, during the pendency of the said application, the suit was transferred to Commercial Court, and by order dated 11.04.2018 the application was allowed and permission was granted to Petitioner to file written statement subject to costs of Rs.2,500/- and said costs was ordered to be deposited within 15 days. It is stated that, Petitioner was not aware of transfer of the suit to Commercial Court and the order dated 11.04.2018 and thus, the Petitioner could not comply with the order of deposit of costs.

5. By the order impugned, the learned Commercial Court has rejected the application filed by the Petitioner, by which the permission was sought to deposit the cost.

6. I have heard the learned Counsel for the parties and perused the impugned order.

7. The learned Counsel for the Respondent No.1, submits that the Counsel for Petitioner was aware about the transfer of the suit to the Commercial Court and the order dated 11.04.2018. It is submitted that, the Commercial Court has, thus, rightly rejected the application.

8. The Petitioner is a Public Sector Undertaking. The suit is for damages and recovery of huge amount of

Rs.78,78,31,940/-. Considering the overall facts and circumstances, it would be appropriate if the suit is decided on merits. The order impugned is, therefore, set aside.

9. The Petitioner shall deposit the costs of Rs.2,500/- (Rs. Two Thousand Five Hundred Only) with Commercial Court within a period of four weeks from the date of uploading of this order.

10. The Petition is **disposed** of in the above terms. No costs.

11. Pending application/s, if any, shall stand disposed of accordingly.

(N.R. BORKAR, J.)