

Vaibhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.18478 OF 2024**

Nikhilesh Keshrichand Jhaveri
And Anr.

...Petitioners

Versus

Johnson Dye Works Private
Limited And Ors.

...Respondents

Mr. Aditya Pimple a/w Vishal Narichania, Sushma Singh and Sayali Sawant, for the Petitioners.

Mr. Gaurav Joshi, Senior Advocate a/w Sanmish Gala, for the Respondent No.1.

Ms. Namita Shirke i/b Jaydeep Thakkar for the Respondent Nos. 2 and 4 to 6.

Mr. Atul Damle, Senior Advocate i/b Advocate Mr. Chirag Gandhi, for the Respondent No.7.

Mr. Devansh Bheda i/b M/s. Purnanand & Co., for the Respondent No.8.

Mr. Sanjeev Gorwardkar, Senior Advocate a/w Drushti Gala a/w Gaurang Mehta a/w Advocate Neelam Dedhia for the Respondent No. 9.

**CORAM: MADHAV J. JAMDAR, J.
DATED: 4 FEBRUARY 2025**

P.C.:

1. By the present Writ Petition filed under Article 227 of the Constitution of India the challenge is to the legality and validity of the Order dated 4th November 2024 passed by the learned Judge, Small Causes Court, Mumbai below Exhibit-182 in T.E. Suit No.185 of 2018. The said Application has been filed by the Petitioners i.e. Defendants Nos.8 to 10, to permit them to cross-examine DW-1 as well as to

conduct such cross-examination lastly, if other defendants wish to cross-examine DW-1 and continue to do the same in respect of all witnesses of other defendants, if any.

2. A perusal of the evidence affidavit filed by DW-1 shows that certain contentions are raised against the interest of Defendants Nos.8 to 10 and therefore, in the interest of justice, it is necessary that Defendants Nos.8 to 10 are allowed to cross-examine DW-1.

3. In view of above position all the learned Counsel tendered agreed Minutes of Order. The said Minutes of Order are signed by all the learned Advocates for the purpose of identification. The said Minutes of Order are taken on record and marked as "X" for Identification. The said Minutes of Order reads as under :-

MINUTES OF ORDER

1. Without getting into the merits of the controversy between the Petitioners and Respondents, it is agreed that the Petitioners, being Defendant Nos.8 to 10 in T.E. Suit No.185 of 2018 shall be permitted to cross examine DW-1 in the said Suit. It is agreed between the Petitioners and the Respondent Nos.2 to 7 that the cross examination shall be conducted in 1 session of 3 hours or within such further time as the Learned Trial Court requires. No adjournment shall be sought by any party.

2. The cross-examination of Defendant Nos.8 to 10 shall be limited to matters which are relevant for the issues framed in the said Suit.

3. In the event of any other Defendants wishing to cross-examine DW-1, they shall do so before Defendant Nos.8 to 10 cross-examine DW-1.

4. This Order is limited to the impugned Order passed in Defendant Nos.8 to 10's Application (Exhibit 182) relating to DW-1's cross-examination by Defendant Nos.8 to 10.

5. All rights and contentions of all parties in the Suit are expressly kept open.

6. The Trial Court shall decide the Suit as per the directions given by this Hon'ble Court by an order dated 15th October 2024 in Writ Petition No.13777 of 2024.

7. In terms of the above, the Impugned Order dated 4th November 2024 is set aside and the petition stands disposed of.

4. Accordingly, the impugned Order dated 4th November 2024 passed below Exhibit-182 in T.E. Suit No.185 of 2018 is quashed and set aside, and the said Application bearing Exhibit-182 is allowed in terms of the Minutes of Order.

5. It is clarified that as far as other witnesses are concerned, if Defendants Nos.8 to 10 wish to cross-examine the said witnesses, Defendants Nos.8 to 10 are at liberty to file an appropriate Application. It is expressly clarified that all contentions of both parties in that regard are expressly kept open.

6. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]