

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1363 OF 2025

Ceratec Construction Through Its Authorised Partner Anand D. Agrawal ..Petitioner

Versus

State of Maharashtra & Ors ...Respondents

Ms. Minal Chandnani, with Annie Cardoz and Urusah M.I., for the
Petitioner.

Mr. Y. D. Patil, AGP, for Respondent No.1-State.

CORAM: N. J. JAMADAR, J.

DATED : 6th FEBRUARY 2025

P.C.:

1. Heard learned Counsel for the Petitioner.
2. At the outset, the learned Counsel for the Petitioner, restricts the Petition for prayer clause (a).
3. The challenge in this Petition is to the order passed by the trial court on an application for impleadment of the Petitioner as party Defendant in Special Civil Suit No. 759 of 2013.
4. The learned Counsel for the Petitioner invites attention of the Court to an order dated 9th December 2024 passed by this Court in Writ Petition No. 17560 of 2024, where an identical order was set aside by

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this Court and the matter was remitted back to the trial court for afresh decision.

5. Paragraph 3 to 7 of the said order read as under.

“3. There is a challenge to this order for the reason, the order is vague and it does not deal with the issues need to be considered while deciding such prayer. The impugned order reads thus:-

“Heard Advocates. In order to adjudicate the real controversy in the suit, I found it just and proper to implead proposed defendants in the suit as necessary parties. Hence, the proposed defendants be added as defendants in the suit. Plaint to amended within limitation.”

4. The trial Court has allowed the prayer by applying the test of “deciding the real controversy in the suit”. Even, I find, the order is very cryptic. The trial Court has only recorded the conclusion but the conclusion is not supported by reasoning. The trial Court ought to have dealt with the averments in the Application on one hand and the objection taken by these Petitioners on the other hand.

5. After considering the rival contentions, the trial Court ought to have arrived at a conclusion in either way. The reasoning is the soul of any order. I find this missing. The order cannot be sustained.

6. I am inclined to remand the matter. There is no need to issue notice to Respondents because this Court is not hearing the matter on merits, that is to say, whether these Petitioners need not be joined as party Defendants or whether they need to be joined as party Defendants. Even, after remand, the Plaintiff is at liberty to convince the trial Court about allowing this Application.

7. In view of that, following order is passed:-

O R D E R

(i) The order dated 5th September 2024 passed by the learned Civil Judge, Senior Division – Pune in Special Civil Suit No.759 of 2013 is set aside.

(ii) The trial Court to hear both the parties on the basis of the Application dated 11th July 2024 and to pass necessary orders.”

6. The order impugned in the instant petition is identical. For the reasons, which weighed with this Court (extracted above), it would be expedient to remit the application, in the instant Petition also, to the trial court for afresh decision on merits after providing an opportunity of hearing to the parties.

7. Hence, following order.

(a) The order dated 5th September 2024 passed by the learned Civil Judge, Senior Division – Pune in Special Civil Suit No. 759 of 2013 stands is set aside.

(b) The trial court is requested to decide the Application for impleadment afresh on its own merits and in accordance with law, after providing an opportunity of hearing to both the parties.

[N. J. JAMADAR, J.]