

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1642 OF 2025

Karida Real Estates Pvt Ltd Through A.S. Srivastava ..Petitioner

Versus

Macrocosm Industries Pvt Ltd & Ors ...Respondents

Mr. Nirman Sharma, with Akshay Doctor, Parag Sawant & Karan Jagtap, i/b P. S. Chambers, for the Petitioner.
Mr. Sachin Dhakephalkar, with Vinod Shinde, for Respondent No.1.
Mr. Vishal Tambat, for Respondent No.6.

CORAM: N. J. JAMADAR, J.

DATED : 20th MARCH 2025

P.C.:

- 1.** Heard the learned Counsel for the parties.
- 2.** The challenge in this Petition is to the two orders passed by the learned Civil Judge, Senior Division, Panvel.
- 3.** Defendant no.1 had filed an Application seeking a direction that the plaintiff shall cross-examine defendant no.2 first, as the latter was partly supporting the case of the plaintiff. If the said order of cross-examination is not followed, defendant no.1 may suffer prejudice.
- 4.** The plaintiff resisted the said Application.
- 5.** By an Order dated 23rd December 2024, the learned Civil Judge was persuaded to reject the Application. The facts that an earlier

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endeavour on the part of defendant no.1 to seek a direction to defendant no.2 to lead evidence before defendant no.1 was called upon to adduce evidence came to be negated, and the said Order was upheld by this Court in Writ Petition (Stamp) No. 220004 of 2024 by an Order dated 7th August 2024, weighted with the learned Civil Judge. The learned Civil Judge, thus, held that defendant no.2 cannot be said to be supporting the case of the plaintiff and, therefore, the plaintiff cannot be called upon to first cross-examine defendant no.2.

6. As defendant no.1 failed to cross-examine the defendant no.2, by further order dated 7th January 2025, the right of defendant no.1 to cross-examine the defendant no.2 stood foreclosed.

7. The Court is informed that after the Order dated 7th January 2025, the plaintiff has already commenced the cross-examination of defendant no.2. In view of the Order passed by this Court on 7th August 2024 in Writ Petition (Stamp) No. 22004 of 2024, this Court may not delve deep into the aspect as to whether the defendant no.2 supports, the case of the plaintiff; fully or partly.

8. However, defendant no.1 must be given an opportunity to cross-examine the defendant no.2. Since on account of the 'no cross' order passed against the defendant no.1, the plaintiff has already commenced the cross-examination, it would be expedient in the interest of justice to set aside the 'no cross' order and permit the defendant no.1 to cross-

examine defendant no. 2, no sooner the plaintiff completes the cross-examination of defendant no.2, with further liberty to the plaintiff to recall defendant no.2 for further cross-examine in the event the plaintiff considers that the during the course of the cross-examination of defendant no. 2 by defendant no.1, certain admissions which are prejudicial to the plaintiff are elicited or the matter introduced in the cross-examination of defendant no.2 by defendant no.1, needs some clarification.

9. Subject to aforesaid clarifications, the Order dated 7th January 2025 foreclosing the right of defendant no.1 to cross-examine defendant no.2 stands set aside.

10. Defendant no.1 shall, however, cross-examine defendant no.2 no sooner the plaintiff completes the cross-examination of defendant no.2, and shall not seek any adjournment.

11. Petition disposed.

[N. J. JAMADAR, J.]