

CNR : MHSCA2-002550-2015

IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXHIBIT 24

IN

R.A.E. SUIT NO.1455 OF 2015

Mrs. Shamsi Malek Malekpur

... Plaintiff

v/s

Pems Investment Pvt. Ltd.

... Defendant

**Coram : P. D. Zambre,
Judge, C.R.No.15,
Date : 11.04.2018**

ORAL ORDER :

The defendant has filed this application to remove the matter from order caption.

2. In short, it is the application of the defendant that when matter is posted under caption of order, advocate of the defendant instructed her junior to attend the matter. But, she was held up in another matter before the City Civil Court in afternoon. Hence, could not attend this matter. Therefore, advocate Mishra send her colleague to request the court for short date. But said request is rejected and matter is posted for order by the Court. On the date of placing matter for order caption, the defendant and advocate are present. But authority letter was not with the defendant. Therefore, the matter could not be

proceeded and it is posted for order. Hence, by this application, the defendant has prayed to remove the matter from order caption and prayed to allow the application.

3. Say of the plaintiff is called. The plaintiff objected the application contending that advocate Tiwari shown disrespect to the Court and went away without making any submission. But the plaintiff is suffering from last stage of COPD. Therefore, he is praying for appropriate order.

4. Heard advocate for the plaintiff. The defendant and its advocate are absent when called out. Hence, the application is taken out for decision on merit. The reason mentioned for placing the matter for order caption is unavailability of resolution / letter of the defendant company for the purpose of verification and affirmation. Considering the reason and considering that yet order is not passed, though the matter is removed from order caption, no prejudice will be caused to other side. On the contrary, it will assist the Court to expedite the hearing. The plaintiff relied upon ruling i.e. **Kanaklata Das & Ors. v/s. Naba Kumar Das & Ors. 2018 Supreme Court in Civil Appeal No.3018 of 2008 dated 25.01.2018**. It is in respect of tenant landlord relationship. The fact of the case are totally different. Hence, it is not useful for decision of this application. Considering reason and considering that yet order is not passed though the matter is removed from order caption, no prejudice will be caused to other side. Hence, the order :

ORDER

1. The application is allowed.
2. The matter is removed from order caption.
3. The costs of the application will follow the event.

(P. D. Zambre)
Judge, C.R.No.15
11.04.2018

Dictated on : 11.04.2018
Transcribed on : 16.04.2018
Checked & signed on : 19.04.2018