

IN THE COURT OF DISTRICT JUDGE, PUNE AT PUNE.

CIVIL SUIT NO. 10/2017

Rishad Darayas Cooper .. *Plaintiff*
Vs.
Nahida Rishad Cooper .. *Defendant*

ORDER BELOW EXH.96

During vacation, this matter was taken on board yesterday at the instance of plaintiff. He wants some correction in direction No. (ix) of the operative order passed on 27.04.2018 below Exh.76. Defendant was served by e-mail. Though copy of e-mail is there, there is dispute that it was not served on defendant or her advocate. Be that as may, defendant through her advocate has appeared today and filed three applications. One is, challenging the maintainability, second is, directing plaintiff to produce the proof of service of e-mail and third is, for vacating the vacation access. Plaintiff has to file reply to all of them. Defendant has not filed reply to the present application.

2- Even though, there is no service of proof of that e-mail, defendant through her advocate is present and hence,

I have heard on the present application. As, I am deciding it, I am passing direction to plaintiff to produce service of e-mail. It is true that for moving the Court during vacation, leave is necessary. Admittedly, it is not taken. Even though yesterday, I have allowed plaintiff to file application. It is also true that there is no procedure in District Court to apply for speaking to minutes. I am not going into that technicality whatever may be the title of the application, I have seen the prayer. Hence, I have heard both the sides and I am deciding the application.

3- Yesterday, when I have heard learned advocate Shri. Bhojwani, I felt that in direction No. (ix) of the operative order below Exh.76, there is typographical error. I mean to say that in spite of plaintiff, it ought to have been defendant and in spite of defendant, it ought to have been plaintiff. It is true that defendant has not filed reply to the present application. During arguments, learned advocate Ms. Merchant brought to my notice observation on page No.6 and residence of the defendant at Kerawala Lodge in direction No. (viii).

4- Direction No. (ix) says about intimating the plaintiff in advance for two days by the defendant, if at all Marc is to be shifted out of Pune. I do not think that there is typographical error. In fact, I think that the entire direction is not at all necessary. The reason is, on Para No.6, I have already taken a note of submission made on behalf of the defendant and defendant was intending to go to Mumbai till the end of vacation. In addition to that, I have passed one more order on Exh.86. Earlier, there was injunction to defendant to go out of Pune. That was relaxed on 27.04.2018 by clarifying that 7 days advance notice is to be given to plaintiff. This order was effective from 04.06.2018.

5- So, the question arise, whether this arrangement will be effective earlier to 04.06.2018. I think, when I have already taken a note of stay of defendant during vacation at Mumbai at Kerawala Lodge, there is no need to direct the defendant to give two days notice in advance prior to going out of Pune. So, I feel that this is not a typographical mistake in direction No. (ix), but

the entire direction was not at all necessary. I am not accepting the prayer (i) in today's application. Instead, I am intending to delete the entire direction. Hence, the order :-

ORDER

- (i)- Direction No. (ix) in order dated 27.04.2018 passed below Exh. 76, is deleted in its entirety.
- (ii)- For deciding rest of the prayers, defendant is given time to file reply.

Place – Pune
Date -08.05.2018

(S. M. Modak)
Principal District Judge, Pune.

I affirm that the contents of this P.D.F., file order /judgment are same word for word as per original Judgment.

Name of Steno : A. G. Tawale
(Stenographer (Grade-1))

Court Name : Principal District Judge, Pune.

Date : 08.05.2018
Judgment signed by P.O. on : 09.05.2018
Judgment uploaded on : 09.05.2018

