



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1073 OF 2018

Mohana Manjunath Gowda & Anr.)....Plaintiffs

V/s.

PNB Housing Finance Ltd. & Anr.)....Defendants

Mr.Kunal Chheda a/w Mr.Chetan Mhatre I/by Utangale and Co. for plaintiffs.

Mr.Mayur Agarwal a/w Mr.Rahul P.Jain I/by Alpha Chambers for defendants.

CORAM : K.R.SHRIRAM,J

DATE : 10.4.2019

P.C.:-

1. At the outset, Mr.Chheda for plaintiffs states that though defendants have filed written statement, the same was filed beyond the period of 120 days and therefore, as held by the Apex Court in ¹*M/s.SCG Contracts India Pvt. Ltd. Vs. K.S.Chamankar Infrastructure Pvt. Ltd. & Ors.*, written statement should be returned.

2. Mr.Agarwal for defendants states that writ of summons itself has not been served and therefore, as held by single Judge of this court in ²*Smt.Mira Gehani Vs. Axis Bank Limited*, 30 days period is

¹ Civil Appeal No.1638 of 2019

² Notice of Motion No.196 of 2018 in Commercial Suit No.159 of 2017 (Justice S.J.kathawala,J) decided on 11.4.2019



yet to begin. Mr.Agarwal states that as defendant has already filed the written statement, will waive the service of writ of summons.

3. In view of the order passed in the Notice of Motion, Mr.Chheda states that plaintiff will restrict their claim to damages and will not press for specific performance.

4. Therefore, the following issues arise in the matter :-

ISSUES

(1) Whether defendant no.2 proves that defendant no.2 is not a proper and necessary party and hence the suit as against defendant no.2 to be dismissed ?

(2) Whether plaintiffs prove that plaintiffs suffered loss of opportunity, loss of profit and mental agony and also have to face litigation from Reliance Home Finance Limited and defendants are directly responsible for the same ?

(3) If answer to issue no.(2) is affirmative, whether plaintiffs prove that they are entitled to damages in the sum of Rs.25 crores ?

(4) What decree ? What order ?

5. Mr.Chheda states within one week from today, plaintiffs will give their say on defendants' documents. Purely by way of indulgence, last opportunity is granted.



6. Plaintiffs to file their list of witnesses, affidavit in lieu of examination-in-chief and compilation of documents and serve a copy thereof upon defendants by 20.5.2019.

7. Stand over to 19.6.2019 for marking of documents/recording of evidence on which date plaintiffs' 1st witness shall remain present in court.

(K.R.SHRIRAM,J)