

ITEM NO.16 Court 5 (Video Conferencing) SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 13691/2021

(Arising out of impugned final judgment and order dated 06-08-2021 in WP No. 7721/2019 passed by the High Court Of Judicature At Bombay At Aurangabad)

ANITA & ANR.

Petitioner(s)

VERSUS

ANIL & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.111164/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 13-09-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Shashibhushan P. Adgaonkar, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Application for exemption from filing c/c of the impugned judgment is allowed.

Learned counsel for the petitioner(s) contends that there is a divergence of judicial opinion between the Bombay High Court and the Calcutta High Court on the issue as to what is the stage at which the trial is stated to commence in respect of interpretation of the provision to Order VI Rule 17 of the Code of Civil Procedure, 1908. The Bombay view, which has been followed in the impugned order, opines that filing of the

affidavit in examination in chief would amount to commencement of trial while on the other hand, the Calcutta High Court in *Sree Sree Iswar Radha Beehari Jew v. Malti P. Soni* -AIR 2019 Calcutta 131 opines that it will be when the cross examination commences.

Issue notice returnable in four weeks.

In the meantime, there shall be stay of the proceedings before the trial Court.

Dasti as well.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS

(POONAM VAID)
COURT MASTER (NSH)