

*Sequeira*

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION*

***WRIT PETITION NO. 1435 OF 2015.***

Sunil Shantilal Shah. .. Petitioner  
Vs.  
Chittaranjan B.Jatakia & ors. .. Respondents

Mr.P.M.Shah a/w Mr.M.K.Tanna, for the Petitioner.  
Mr.H.S.Shreepad Murthy a/w Mr.Abhishekh Patil i/b Mr.Anand  
Nikhal, for the Respondent Nos.1 to 4.

***CORAM: N.M.Jamdar, J.  
Monday 30 March, 2015***

**Oral Order:**

By this petition, the Petitioner challenges the order dated 10 December 2014 passed by the Appellate Bench of Small Causes Court Mumbai in Revision Application No.160 of 2014 rejecting the Revision Application filed by the Petitioner against the order passed by the learned Judge, Small Causes Court below Exhibit No.91 in R.A.E Suit No.168 of 2004. The Petitioner had sought amendment to the Written statement filed by him which was rejected by the impugned orders.

2 The learned counsel for the Petitioner submitted that the Petitioner in the Written statement had stated that after the death of the father of the Respondents, he was not sure as to who is the landlord of the premises and thereafter a probate was issued in favour of the Respondent No.1 as an administrator, in favour of the beneficiaries. By an application for amendment of the Written

statement this fact was sought to be brought on record and to delete the amendments in respect of the doubt expressed by the Petitioner regarding the ownership of the original Plaintiff. The learned counsel for the Petitioner relied upon decision of this Court dated 30 November 2011, in *Writ Petition No.4428 of 1995* in the case of **Mrs.Munnidevi Parasram Purohit Versus Rameshchandra Maniar and others**. He submitted that by merely expressing a doubt as regards the sole ownership of the landlord as he may be an owner along with various other persons, is not a denial of title in the first place. He submitted that therefore, the learned Judge was not right in holding that a ground for eviction accrued to the Respondents by the statement in the Written statement, was sought to be taken away by the amendment.

3 If that be the contention of the Petitioner, then it is not necessary to amend the statement as the Petitioner can always place on record the copy of the probate and argue the matter on the basis of Written statement already on record. The learned counsel for the Petitioner and the learned counsel for the Respondents also accepts this position that the final arguments in the suit can proceed on the basis of pleadings as they are. In view of this consensus, it is not necessary to delve deeper into the controversy. Keeping all contentions open, the Writ petition is disposed of.

(N.M.Jamdar, J.)