

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

WRIT PETITION NO. 1516 OF 2015

Mrs.Tulsi Kishin Bhatia

... Petitioner

v/s

Mr.Chandrakant S. Shah

... Respondent

Mr. V. T. Lulia for the petitioner.

Mr.P.B. Yadav for the respondent.

CORAM: NITIN M. JAMDAR, J.

DATED : 6TH MAY, 2015

ORAL ORDER:

Rule. Rule made returnable forthwith. Taken up for final disposal by consent of both parties. Respondent waives service.

2 The petitioner who is a landlord of the premises challenges the order passed by the Appellate Bench of the Small Causes Court, Mumbai, dated 20 January 2015 remanding the matter to the Trial Court for the purpose of examination of some witnesses pursuant to production of documents by the respondent.

3 The entire exercise of filing this writ petition and the

arguments in the Court and the time of this Court in disposal of this petition could have been avoided if the Appellate Bench had considered the stand of the petitioner.

4 The respondent sought to produce certain documents before the Appellate Bench. On the application itself the advocate for the petitioner had given his no objection for admission of document Nos.1 and 2, as the third document would not be necessary if two are produced. Even in the impugned order, the Appellate Bench noted the contention of the advocate for the petitioner that he is admitting the documents, however, it was brushed aside on the ground that there is no such endorsement made, when in fact there is an endorsement. In the operative part of the impugned order, the Appellate Bench has clarified that, if the petitioner admits the documents before the Trial Court, it will not be necessary for the respondent to examine any witness. This direction was also not necessary since the petitioner was admitting the documents. The anxiety of the petitioner is to see that the respondent does not prolong the hearing of the appeal. In view of this stand of the petitioner which is reiterated in this Court, the impugned order will not be necessary. The document Nos.1 and 2 in the application filed by the respondent are admitted by the petitioner, subject to the arguments at the time of final hearing. All contentions of the parties in these documents are kept open.

5 The writ petition is accordingly allowed by quashing and

setting aside the impugned order dated 20 January 2015, subject to the above clarification.

6 Rule is made absolute in the above terms.

(NITIN M. JAMDAR, J.)