

*Sequeira*

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

***WRIT PETITION NO. 6019 OF 2014.***

Crest Hotels Ltd.

.. Petitioner

Vs.

Shri Harsha Vardhan Dhanwatey & ors.

.. Respondents

Mr.PK.Dhakephalkar, Senior advocate a/w Mr.P.P.Chavan, Mr.Murari Madekar and Mr.Sachin Kudalkar i/b Madekar & Co., for the Petitioner.

None for Respondents.

***CORAM: N.M.Jamdar J.***

***Tuesday 17 March, 2015***

**P.C.:**

By this petition, the Petitioner challenges the order passed by Division bench of Small Causes Court, Mumbai dated 30 July 2013 confirming the order passed by the learned Small Causes Court Judge, dated 24 June 2004 fixing the standard rent of the premises at Rs.9,00,000/- per annum.

2 The Petitioner is a Company carrying on business of hoteling. The premises are situated at Dr.Annie Besant Road, Worli. The premises admeasure 5359.33 sq.mtrs. The Respondents had purchased the plot on 4 November 1963. Thereafter the Respondents submitted a layout for development. The plot was sub-divided. Certain agreements were entered into by the Respondents with one Poonamchand M. Shah. The Petitioner had

constructed ground plus fourteen storeyed structure on the said plot and started a hotel business. An application was made by the Petitioner for fixation of standard rent on the ground that the rent of Rs.9,00,000/- per annum was not voluntarily conceded by the Petitioner but they were forced to enter into these terms with the Respondents. The Applicants contended that the rent of Rs.9 lakhs per annum was excessive and some of the covenants in the lease were onerous. The Respondents filed their reply and justified the rent of Rs.9,00,000/-. The learned Small Causes Court Judge by his order dated 24 June 2004 found that the rent of Rs.9 lakhs per annum was proper and that was agreed to between the parties. The Petitioner thereafter filed a revision before the Division bench of the Small Cause Court which came to be rejected by the order dated 30 July 2013.

3 Mr.Dhakephalkar, the learned senior counsel for the Petitioner, submitted that there is absolutely no basis for fixing the rent at Rs.9 lakhs per annum. He submitted that the valuer who had given the valuation report expired and his son stepped in witness box wherein he has given various admissions which will demonstrate that the valuation was not correct and proper. He submitted that the valuation report has drawn comparisons with the structures at Nariman Point which cannot be considered as comparable with the present property.

4 Both the learned Small Causes Court Judge and the Division bench considered the entire material on record. Apart from the

valuation report, the Courts have considered the location of the property, the purpose for which they were let out and that in the agreement the Petitioner had decided to take the land on lease of Rs.15,00,000/- for the entire plot and it was subsequently divided into Rs.9,00,000/- for suit premises and Rs.6,00,000/- for the other plots. Both the Courts took note of this agreement of the Applicant. As regards the admissions given by valuer's son, even keeping aside his admissions, the valuation report is still on record. It cannot be said that the comparison drawn with location of Nariman Point, another commercial locality in the city, completely off the mark and absurd, so as to interfere in writ jurisdiction. The valuer has considered the commercial potentials of both areas.

5 While exercising the writ jurisdiction, Court will have to take the ground realities into consideration. The plot is located in a prime area in Mumbai and is put to use as a hotel. Thus, considering these factors, it cannot be said that fixation of standard rent of Rs.9,00,000/- per annum by both the Courts below is so perverse, so as to warrant interference in writ jurisdiction.

Writ petition is accordingly rejected.

*(N.M.Jamdar J.)*