

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6110 OF 2014

Sunderben Chunilal Chheda Jain and Ors.] ... Petitioners

Versus

Babubhai Jethalal Shah and Anr.] ... Respondents

Mr. Piyush M. Shah a/w M. K. Tanna & R. K. Tanna for Petitioners.
Mr. Pankaj S. Shinde for Respondents.

CORAM :- M. S. SONAK, J.

DATE :- JUNE 15, 2015

P. C. :-

1. The challenge in this petition is to the order dated 15/03/2014 made by the Appeal Bench of the Small Causes Court in Revision Application No.122 of 2013, primarily on the ground that the Appeal Bench should not have referred to the amount which the Petitioners have been directed to deposit as 'rent'.

2. The Petitioners have made it clear that they have no objection to deposit the amount directed, provided the same is not styled as 'rent'. According the learned Counsel for Petitioners, acceptance of the position that the said amount constitutes 'rent' would prejudice the Petitioners' rights and contention in the proceeding pending before the Small Causes Court.

3. On the other hand, the learned Counsel for Respondent submits that there is no error in describing the said amount as 'rent' and therefore this Court ought not to interfere with the impugned order.

4. At this stage, it is not necessary for this Court to go into the controversy as to whether the amount directed to be deposited should be styled as 'rent' or 'compensation'. Ultimately, this is a matter which will have to be decided independently by the Small Causes Court. Accordingly, the Petitioners to deposit the amount directed under the impugned order without prejudice to the contention that the said amount ought not to be styled as 'rent'. The issue as to whether the said amount is to be regarded as 'rent' or not, to be decided by the Small Causes Court in accordance with law and on its own merits. The same shall be the position with regard to other pending matter, where it is said that the same issue may arise.

5. With the aforesaid observation, this Writ Petition is disposed of.

6. Petitioners to deposit the amount directed by the impugned order within a period of six weeks from today.

(M. S. SONAK, J.)