

Sequeira

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

WRIT PETITION NO.5847 OF 2014.

Casa Decor Pvt. Ltd.

.. Petitioner

Vs.

Arup Builders and Developments

Pvt. Ltd. & ors.

.. Respondents

Zubin Behramkamdin a/w Charles De'Souza and Mahima Sinha, for the Petitioner.

Mustafa Doctor, Senior advocate a/w Ms Veena Kamble i/b M.T.Miskita & Co., for Respondent Nos.1 to 3.

CORAM: N.M.Jamdar J.

Tuesday 17 March, 2015

PC.:

Heard learned counsel for the parties.

2 By this petition, the Petitioner challenges the order passed by the appeal bench of Small Causes Court, dated 2 May 2014 dismissing the Revision as not maintainable, and the order passed by the learned Small Causes Court Judge, dated 26 March 2014.

3 Considering the fact that the impugned order challenged before appeal bench of Small Causes Court was only regarding deposit of license fees and the main proceedings are still pending before the learned Small Causes Court Judge, I have considered the merits of the order dated 26 March 2014 without going into the issue as to the maintainability of the appeal raised in the petition. The learned counsel for the parties also state that the ambit of the

litigation has undergone a substantial change recently since the Petitioner has handed over possession of the premises, on 5 May 2014. The main proceedings before Small Causes Court are now only as regards the monetary aspect.

4 In view of the fact that the main proceedings are pending and what is challenged in the present petition is now only the liability of respective parties to make payment, I do not propose to go into the merits of the rival contentions, which would be considered in the pending proceedings.

5 As regards the amounts which the petitioner has deposited under clause (ii) and (iii) of the impugned order dated 26 March 2014, the Respondents will be entitled to withdraw the same subject to rights and contentions of the parties to be adjudicated in the main proceedings. As regards rest of the amount which is claimed by Respondents under clause (iv) of the order dated 26 March 2014 is concerned, it will be open to the Respondents to make an appropriate application to the Small Causes Court, which will be considered on its own merits. All contentions of the parties in that regard are kept open.

6 Mr.Behramkamdin, the learned counsel for the Petitioner submits that by error some double deposit has been made in the Small Causes Court. If that be so, it will be open to the Petitioner to make an appropriate application in that regard to the Small Causes Court.

7 In view of the above arrangement arrived at by consensus, no further orders are required to be passed in this petition, which is accordingly disposed of in above terms.

(N.M.Jamdar J.)