

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6415 OF 2015**

Pramod Kantilal Sagar

..Petitioner

Vs.

Pralhad s/o Lt. Manohardas Sharma & Ors.

..Respondents

Mr. P. J. Thorat i/b Mr. S. K. Jain for the Petitioner

Mr. V. K. Gupta for the Respondents

CORAM : R. M. SAVANT, J.

DATE : 9th SEPTEMBER, 2015

P.C.

1 The refusal of the Trial Court to appoint the Court Receiver in respect of the suit property has prompted the filing of the instant Petition. By the impugned order dated 9-5-2015, Notice of Motion No.1163 of 2015, filed by the Petitioner i.e. original Plaintiff has been partly allowed to the extent of restraining the Defendants from disposing of the suit property or parting with the possession of the same or part thereof to anybody. The prayer for appointment of the Court Receiver sought vide prayer clauses (b) and (c) has been impliedly rejected by the Trial Court. Before the Trial Court, it was the case of the Defendants that they have surrendered the possession of the suit property to the landlord in support of which reliance is placed on the letter dated 27-2-2015 address to the “landlords”. Hence in so far as the relief sought vide prayer clauses (b) and (c) are concerned, since it is the case of the

Defendants that the tenanted premises being Room No.3 has already been handed over to the landlords, it would therefore be necessary for the Petitioner to amend the Complaint by arraying the landlord / landlords as party to the Defendants to the Suit along with the consequential amendments and thereafter renew their application for the reliefs in terms of prayer clauses (b) and (c).

2 This Court does not express any opinion as regards the letter dated 27-2-2015 by which the tenanted premises are allegedly surrendered to the landlords. If the application for amendment as well as the fresh application for relief in terms of prayer clauses (b) and (c) is filed, the Trial Court is directed to consider the same expeditiously and not later than 4 weeks of the filing and presentation of the said application. The Trial Court would consider the application for amendment that would be filed on the basis that the said event has occurred after the Plaintiff has been dispossessed and it is the case of the Defendants that the premise in question have been surrendered.. Needless to state that the application that would be filed for reliefs in terms of prayer clauses (b) and (c) would be tried on its own merits and in accordance with law.

3 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]

Certified to be true and correct copy of the original signed order