

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

WRIT PETITION NO. 6473 OF 2014

Mehboob Ahmed Essop & ors. ... Petitioners

v/s

The Brihan Mumbai Mahanagarpalika ... Respondent

Mr.S.M. Gorwadkar for the petitioners.

Ms.Pallavi Thakar for the respondent B.M.C.

CORAM: N. M. JAMDAR, J.

DATED : 21ST APRIL, 2015

ORAL ORDER:

Heard learned counsel for the parties.

2 By this petition, the petitioners seek to challenge the order passed by the Small Causes Court, Mumbai, dated 15 March 2014, rejecting the application for amendment filed by the petitioners.

3 The petitioners have filed a suit bearing R.A.E. Suit No.176/271 of 2012, seeking eviction of the respondent Municipal Corporation, who is running a school in the premises. An application for amendment was moved on the ground that written statement discloses that the respondent has altered the number of rooms in the premises. Learned counsel for the respondent

Corporation states that the written statement does not admit such position.

4 There appears to be some variance as regard the number of rooms in the plaint and in the written statement. In my opinion, it would be advantageous to have a report of the Court Commissioner to ascertain the exact position of the suit premises, in view of the rival contentions advanced. After the report of the Court Commissioner so received, the petitioner may apply for an amendment of the plaint which application will be considered on its own merits.

5 Therefore, granting liberty to the petitioners to make an appropriate application to the learned Small Causes Court for appointing the Court Commissioner, the writ petition is disposed of.

(N. M. JAMDAR, J.)