

Sequeira

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

WRIT PETITION NO. 7615 OF 2014.

The Financial Board,
Bombay Annual Conference Methodist
Episcopal Church, in Southern Asia
now known as-
Bombay Regional Conference of the
Methodist Church India,

.. Petitioner

Vs.

Heirs and Legal representatives of
Late Ivy Vivienne Jesudian @ Irene
Jesudian & anr.

.. Respondents

Mr. Deepak Jadhav, for the Petitioner.
None for Respondents.

***CORAM: N.M.Jamdar, J.
Monday 27 April, 2015***

PC :

By this Petition, the Petitioner challenges the order passed by the learned Judge, Small Causes Court, Mumbai dated 5 April 2014 framing certain additional issues.

2 The Petitioner has filed an R.A.E Suit No.411 / 606 of 2010 against the Respondents for eviction from the suit premises. In this suit, when the matter was placed on board for reply / arguments of Respondent No.2, considering the rival contentions and the pleadings, the learned Judge was of the opinion that since the Petitioner had not accepted Respondent No.2 as a tenant and the

Respondent No.2 on the other hand, had asserted it's right to occupy the premises, an additional issue as to whether there exists a landlord-tenant relationship between the Plaintiff and Respondent No.2 was necessary to be framed. Accordingly the learned Judge has framed the additional issue by order dated 5 April 2014.

3 The learned counsel for the Petitioner submitted that the additional issue is covered by the first issue as to whether the Respondent No.2 is in unauthorised occupation. This is not the same as to whether there exists a landlord-tenant relationship. The order passed is purely interlocutory. The discretion used by the learned Judge, to frame an additional issue which according to him arises in consideration in the matter, cannot be termed as perverse. Petitioner can always agitate the case on merits. It is not necessary to interfere with the impugned order.

Writ Petition is accordingly rejected, keeping all arguments on merits open.

(N.M.Jamdar, J.)