

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

WRIT PETITION NO. 7444 OF 2013

Shri Sunil Sukdeo Lonkar

... Petitioner

v/s

Laxmi Ambadas More

... Respondent

Mr.Sachin Gite for the petitioner.

Ms.VR. Raje i/by PN. Joshi for the respondent.

CORAM: N. M. JAMDAR, J.

DATED : 21ST APRIL, 2015

ORAL ORDER :

Rule. Rule made returnable forthwith. Respondent waives service. By consent of parties, taken up for final disposal.

2 The petitioner challenges the order passed by the Additional Commissioner, Nashik, rejecting the revision application filed by the petitioner. The respondent filed an Application No.3 of 2009 seeking recovery of possession from the petitioner. It is the case of the respondent that she is widow of the deceased Ambadas More, who was working as a Cook in the Indian Army. He expired on 30 January 2008 and after his death, the respondent became owner of the suit premises. It was her case that the petitioner avoided to pay the rent to her. The application was considered by the

competent authority and by an order dated 10 May 2012 it was allowed and the petitioner was directed to hand over the possession of the premises to the respondent. Thereafter the petitioner filed a revision No.2 of 2013 before the Additional Commissioner, Nashik. The Additional Commissioner, by the impugned order dated 29 May 2013, dismissed the revision. It appears that the petitioner nor his advocate were present when the order was passed. This order has been impugned in the present petition.

3 I have heard learned counsel for the parties.

4 In this petition, notice was issued on 20 August 2013 and ad-interim relief staying the impugned order is operating since then. The main grievance made by the learned counsel for the petitioner is that the Additional Commissioner passed an order without hearing the petitioner. This grievance appears to be justified. The arguments advanced by the learned counsel for the respondent are on merits, however, the fact that the order passed by the Additional Commissioner was without hearing the applicant is not disputed. In view of this position, no purpose will be served by keeping the petition pending in this Court. It would be appropriate to remand the matter back to the Additional Commissioner for consideration after hearing the petitioner.

5 Accordingly, the writ petition is allowed. Rule is made

absolute in terms of prayer clause (a).Revision Application No.2 of 2013 filed by the petitioner is restored to file. Parties shall remain present before the Additional Commissioner on 6 May 2015. Thereupon the Additional Commissioner will give further dates in the matter. The petitioner ,either himself or through his advocate, will attend the date fixed by the Additional Commissioner and will cooperate with the learned Additional Commissioner for early disposal of the revision.The Additional Commissioner will make an endeavor to dispose of the revision application within a period of six months from today.

(N. M. JAMDAR, J.)