

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3701 OF 2015

1. Shri Rajesh S/o. Deepak Sukhlal Modi,	]	
2. Smt. Deepti Kiran Mehta D/o. Deepak	]	
Sukhlal Modi.	]	
Heirs and legal representatives of	]	
Deceased Tenant Deepak Sukhlal Modi.	]	... Petitioners/ (Orig. Defendants)

Versus

Shri Harshad Kantilal Patel.	]	... Respondent/ (Orig. Plaintiff)
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Ms. Snehal R. Modi for Petitioners.
Mr. B. R. Dalal for Respondent.

CORAM :- M. S. SONAK, J.
DATE :- JUNE 09, 2015

P. C. :-

1. This petition is directed against the orders dated 16 July 2014 made below Exhibit Nos.26 and 28 by the Small Causes Court at Mumbai, directing the Petitioners to offer inspection of certain documents to the Respondent.

2. It is the case of the Petitioners that inspection of most of the documents has already been offered and the Petitioners do not have in their possession some of the documents and therefore, are in

no position to offer such inspection. The learned Counsel for Petitioners submitted that the impugned orders are non-speaking and made by the learned Judge without any application of mind. The learned Counsel for Petitioners placed reliance upon the decision of the learned Single Judge of Gujarat High Court in the case of ***Union Bank of India and others vs. Hemantlal Ranchhodbhai Vegad***¹ for the proposition that the Court, before grant of any application for discovery of document, is duty-bound to consider the relevance of the said document with regard to the dispute or controversy between the parties.

3. Insofar as the aspect of relevancy is concerned, it cannot be said that the impugned orders are in any manner infirm. The Respondent-landlord seeks to establish non-user of the suit premises. In this context, it cannot be said that the documents, of which inspection has been applied for, are irrelevant or not germane.

4. At this stage, there is no reason to enter into the controversy as to whether or not inspection of at least some of the documents which the Petitioners admit to be in their possession was indeed granted by the Petitioners to the Respondent or not. There is no harm if, without prejudice, the Petitioners once again offer inspection to the Respondent as directed by the Small Causes Court. There is no reason to interfere with the impugned order on this count.

¹ AIR 1991 GUJARAT 113

5. Insofar as the documents which the Petitioners claim are not in their possession is concerned, once again, this is not the stage to enter into such controversy. The learned Counsel for Petitioners submits that the Respondent has already applied to the Small Causes Court for striking off defence, *inter alia*, on the ground that there is non-compliance with the order directing inspection/discovery. In such an application, it is for the Petitioners to establish that such documents were indeed not in possession of the Petitioners or that the Petitioners were not even in a position to furnish photo-copy of such documents to the Respondent. The cause so shown by the Petitioners, will be duly considered by the Small Causes Court, having regard to the contentions of all the parties.

6. In view of the aforesaid, there is no reason to interfere with the impugned order which suffers from neither any jurisdictional error nor non-application of mind. This petition is accordingly dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

(M. S. SONAK, J.)