

Sequeira

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

WRIT PETITION NO.10635 OF 2014.

M/s Hindustan Rubber Works.	.. Petitioner
Vs.	
M/s.Automated Business Machines Pvt. Ltd.	.. Respondent

Mr.D.B.Savant, for the Petitioner.
None for the Respondent.

***CORAM: N.M.Jamdar J.
Tuesday 17 March, 2015***

P.C.:

By this petition, the Petitioner challenges the order passed by the learned Small Causes Court Judge, Mumbai dated 4 March 2014 granting application for amendment of the plaint filed by the Respondent in the Small Causes Court.

2 Respondent has filed a suit seeking a declaration as regards it's tenancy rights. According to the Respondent, it was in use and occupation of the premises for a long period of time. According to it, the Petitioner got an agreement executed and which agreement was subsequently cancelled. It was further the case of the Respondent that in view of this and other developments, the Respondent was constrained to file the suit.

3 The Respondent filed application for amendment of the plaint to bring on record certain subsequent events such as demolition of the building and its reconstruction and sought some further additional prayers consequent to the demolition of the premises. This application was contested by the Petitioner on the ground that nothing remains in the suit as the suit premises are already demolished and the suit has become infructuous. The learned Small Causes Court judge found that what was sought to be brought on record were subsequent events and accordingly allowed the amendment by order dated 4 March 2014.

4 As regards the contention of Mr.Savant, the learned counsel for the Petitioner that the demolition of the building was done legitimately by the Petitioner and no cause of action survives, it is on the merits of the suit. By way of impugned order, the Respondent has been permitted to bring on record certain subsequent events. The Petitioner will have an opportunity to file it's additional Written statement and contest the contentions made in the amended portion, including the ones advanced in this petition. The learned Judge has rightly observed that at this stage no prejudice is caused to the Petitioner as Petitioner will get an opportunity to contest the case on merits. No case for interference is made out in the jurisdiction under article 227 of the Constitution of India.

The petition is rejected.

(N.M.Jamdar J.)