

Sequeira

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

WRIT PETITION NO. 10357 OF 2014.

Shri Dipak Babulal Shah & ors. .. Petitioners
Vs.
Shri Anil Ratanchand Shah & anr. .. Respondents

Mr.Sanskar Marathe a/w Mr.Rohit Gangawane, for Petitioners.
Ms Amruta Mehendale, for Respondents.

***CORAM: N.M.Jamdar J.
Wednesday 25 March, 2015***

PC.:

By this petition, Petitioners challenge the orders dated 11 September 2014 below Application Exh.103 in C.S. No.371 of 2008 as well as the Order dated 11 September 2014 below Application at Exh.107 in the said Suit in C.S. No.371 of 2008, passed by the learned Judge, Small Causes Court Pune, rejecting the applications filed by the Petitioners who are defendants in this suit for production of some documents along with affidavit and to lead secondary evidence in that regard.

2 The Respondents have filed a suit in the Court of Civil Judge Junior division, Pune. In the suit the Respondents have contended that the Petitioners were allowed to occupy the premises on gratuitous basis and inspite of the Respondents calling upon them to vacate they did not vacate the premises. It is also contended in

the plaint that the Petitioners have various other properties and they do not require the premises. The premises are admeasuring 20 x 10 feet in the limits of Pune Municipal Corporation. The suit was instituted on 24 October 2001. The Petitioner filed Written statement in October 2010.

3 After evidence of the Respondents / Plaintiffs was over, on 21 July 2014, an application was filed by the Petitioners stating that the Petitioners wanted to produce certain documents on record. The application gave no reasons whatsoever except for stating that on the last date, Petitioner No.1 was not well. There was no explanation as to why when the suit was instituted in the year 2001, and Written statement was filed about four years ago, that the Petitioners were prevented for any reasons from producing the documents earlier. The application was opposed by Respondents / Plaintiffs and it was rejected by the impugned order dated 19 September 2014.

4 The learned counsel for the Petitioners submitted that the reasons given that when the Respondents had filed an application earlier, the Petitioners opposed it and therefore, they are not entitled to any latitude, is incorrect. There may be substance in this submission however, that was not the only ground on which the application was rejected. The application was rejected on the ground that no reasons at all were given in the application as regards the delay. The perusal of the application shows that it is bereft of any particulars whatsoever.

5 The suit was filed by the Respondents in the year 2001 contending that the Petitioners were inducted only on purely gratuitous basis. The suit has progressed till the examination of the respondent / plaintiffs. The provisions of Maharashtra Rent Control Act 1999 lays down desirable time limit within which suits are to be disposed of. The learned Judge was justified in observing that the application was made very casually. Even today the learned counsel for the Petitioners is unable even to give an iota explanation why the application was moved at a belated stage. He submitted that these documents are referred to in Written statement. That would make matters worse for the Petitioners in terms of due diligence. I am in agreement with the conclusion reached by learned Judge that no reason existed and that the Petitioners are only interested to somehow delay the hearing of the trial.

6 No interference is warranted in writ jurisdiction considering the conduct of the Petitioners. The Writ petition is accordingly rejected.

7 In view of the rejection of the petition, there is no question of granting any relief as regards production of secondary evidence.

(N.M.Jamdar J.)