

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10580 OF 2014

Jyotsna Ashok Vernekar & Anr.	..	Petitioners
vs.		
Chanchalben Vassanji Jevat	..	Respondent

WITH
WRIT PETITION NO. 10579 OF 2014

Jyotsna Ashok Vernekar & Anr.	..	Petitioners
vs.		
Anil M. Vira	..	Respondent

WITH
WRIT PETITION NO. 10581 OF 2014

Jyotsna Ashok Vernekar & Anr.	..	Petitioners
vs.		
Sudhir M. Vira	..	Respondent

WITH
WRIT PETITION NO. 10582 OF 2014

Jyotsna Ashok Vernekar & Anr.	..	Petitioners
vs.		
Shamji B. Vora	..	Respondent

Ms Jui Nerurkar for Petitioners.
Mr. Jawahar J. Thakkar for Respondent in WP No. 10582 of 2014.

CORAM : M. S. SONAK, J.
DATE : 03 JULY 2015

P.C. :-

1] These petitions can be disposed of with a common order.
Hence, Rule. Rule is made returnable forthwith with the consent of
the learned counsels for the parties.

2] In all these petitions, the challenge is to the orders dated 26 August 2014 by which the appellate bench of the Small Causes Court has allowed the respondents, who are the plaintiffs in RAD Suit No. 1949 of 2011 to amend their respective complaints.

3] Ms Jui Nerurkar, the learned counsel for the petitioners submitted that the appellate bench has not examined the crucial issue as to whether the amendments applied for were at all necessary for the purposes of full and effective adjudication of all the issues raised in the suit. By means of the proposed amendments, the respondents seek to introduce irrelevant material and even legal submissions, which according to the learned counsel for the petitioners is impermissible. The learned counsel for the petitioners further submitted that almost two years have elapsed since the filing of the suits and the amendment now allowed, is the second amendment to the complaints. For all these reasons, Ms Nerurkar submitted that the impugned orders warrant interference.

4] Mr. Jawahar Thakkar, the learned counsel appearing for the respondent in WP 10582 of 2014 defended the impugned orders by contending that the amendments were necessitated on account of subsequent events and further because there was some

communication gap between the respondents and their previous lawyer, on account of which full and effective facts remained to be stated in the plaints.

5] Having heard the learned counsels for the parties and perused the record, in my judgment, this is not a fit case to exercise extra ordinary jurisdiction under Article 227 and upset the impugned orders. In making the impugned orders, the appellate bench has indeed addressed itself to the issue of necessity of such amendment and in any case, the amendments have been allowed at a stage where trial in the suits is yet to commence. Some of the amendments relate to subsequent events. At this stage, it is neither possible nor feasible for this Court to go into the merits of the contentions raised in the proposed amendments. Suffice to record that the impugned order does not suffer from any jurisdictional error. Suffice further to note that in granting leave to amend, the appeal court has not exercised its powers in an arbitrary or in an unreasonable manner.

6] In so far as prejudice to the petitioners - landlords is concerned, the same can always be compensated by way of costs. The appeal Court has awarded costs of Rs.1,000/-. However, in the facts and circumstances of the present cases, the costs

should have been higher, particularly considering the circumstance that the petitioners cannot be made to suffer any prejudice due to communication gap between the respondents and their erstwhile Advocates. Accordingly, the costs in each of these matters are enhanced from Rs.1,000/- to Rs.3,000/-.

7] Save and except the aforesaid modification with regard to costs, the impugned orders are not interfered with. The difference in costs to be paid to the petitioners / deposited by the respondents - plaintiffs in the trial Court within a period of four weeks from today.

8] Rule is disposed of in the aforesaid terms. There shall be no separate order as to costs in these petitions.

9] All concerned to act on basis of an authenticated copy of this order.

(M. S. SONAK, J.)