

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St.NO.33374 OF 2015**

Satra Properties (India) Ltd.

..Petitioner

Vs.

Naresh Sevantilal Vora

..Respondent

Mr. Feroz Bharucha i/b Mr. B. K. Gala for the Petitioner

Mr. Ketan Joshi a/w Mr. Aditya Shashithal for the Respondent

CORAM : R. M. SAVANT, J.

DATE : 8th DECEMBER, 2015

P.C.

1 The above Petition take exception to the order dated 27-11-2015 passed by the Learned Judge of the Small Causes Court, Bandra Branch, Mumbai, in RAD Suit No.728 of 2014.

2 It is the contention of the Learned Counsel for the Petitioner that by the said order dated 27-11-2015 the evidence of the Petitioner who is the original Defendant in the Suit in question has been closed. The Learned Counsel further states that the said order is as yet not made available to the Petitioner. By the impugned order the evidence of the Petitioner is closed in so far as the preliminary issue of jurisdiction of the Small Causes Court is concerned.

3 During the course of the hearing of the above Petition, the parties

have arrived at a consensus. The Learned Counsel appearing on behalf of the Respondent Mr. Joshi on instructions of the Respondent who is personally present in Court makes a statement that the Respondent would first file his affidavit of evidence in so far as the said preliminary issue is concerned and that he is agreeable to the Petitioner herein thereafter filing his rebuttal evidence. Hence in so far as the preliminary issue is concerned, the Respondent / Plaintiff would first lead evidence and thereafter rebuttal evidence would be led by the Petitioner / Defendant.

4 In view of the said statement, the order dated 27-11-2015 passed by the Learned Judge of the Small Causes Court closing the evidence of the Petitioner/Defendant stands set aside and the course of action as mentioned hereinabove would be followed by the Trial Court. The adjudication of the preliminary issue is expedited and the same is directed to be decided latest by 28-2-2016. With the aforesaid directions, the Writ Petition is disposed of.

5 In view of the above, the Learned Counsel appearing for the Petitioner makes a statement that the Revision Application No.140 of 2015 would be withdrawn by the Petitioner from the Appellate Bench of the Small Causes Court.

[R.M.SAVANT, J]