

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12331 OF 2016

New Bharat Education Society and Trust
and Others

..PETITIONERS

VERSUS

Gautam Kacharadas Sancheti and Others

..RESPONDENTS

....
Mr. V.J. Dixit, Senior Advocate i/b Mr. L.V. Sangeet, Advocate for
petitioners.

....

**CORAM : T.V. NALAWADE, J.
DATED : 14th DECEMBER, 2016**

ORDER :

1. The petition is filed to challenge the order made on Exhibit 63 in Rent Suit No. 26 of 2011. Heard learned Senior Counsel for petitioner.
2. The application was filed by the plaintiff – landlord for giving him permission to inspect the suit premises alongwith architecture as the plaintiff wants to carryout necessary measurements and prepare map. There was also alternate relief to appoint expert to bring actual situation of suit property, the existing construction on it on the record.

3. The suit is filed for possession on the ground given under Section 16(1)(i) and the plaintiff wants to make new construction after pulling down the present construction. Learned Senior Counsel submitted that this Court had given direction to the Trial Court in Writ Petition No. 6580 of 2013 to consider the request of the landlord for inspection but it was to be done after the evidence was given. It was submitted that when evidence is not completed, such request was made and the Court has given permission.

4. The objection of the petitioner is misconceived. Under Section 28 of the Act, landlord has right to inspect the premise and nobody including the tenant can prevent the landlord from inspecting the premise. He wants to bring on record the condition of the building alongwith measurement and that is necessary for proper decision. The provisions give scope for ascertaining the things and unless and until landlord is allowed to make inspection and to do aforesaid things, it will not be possible for him to take further steps and prove his case. It can be said that in such case, the tenant is always interested in preventing the landlord from taking such inspection so that his case is hampered, he is not in a position to prove his case.

5. In view of right of landlord, this Court holds that Rent Court has not committed any mistake in allowing the application filed by the landlord. In the past, the inspection was delayed as tenant had expressed that he has some difficulty due to the festivals like Diwali and school was being run. The inspection does not take that much time and no inconvenience will be caused to the tenant if landlord is allowed to inspect the premise after the school hours or between recess. In any case it is his right to inspect the premise. There are no merits in the present proceeding. Petition stands dismissed.

(T.V. NALAWADE, J.)

SSD