

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

5 WRIT PETITION NO. 12216 OF 2016

LAXMINARAYAN SHANKARLAL MANTRI
VERSUS
KAMALNAYAN HIRALAL MANTRI

...
Advocate for Petitioner : Yawalkar Siddharha B.
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CORAM : T.V. NALAWADE, J.
DATED : 15th December, 2016.

ORDER :

1. The petition is filed to challenge the order made on Exh. 35 in Rent Suit bearing Regular Civil Suit No. 163/2004, which is presently pending in the Court of Civil Judge, Junior Division, Jalgaon. Heard the learned counsel for petitioner.

2. The suit is filed for eviction and possession under the provision of Bombay Rent Control Act by the respondent and this is in respect of two rooms of house No. 181 which is given C.T.S. No. 1934/A-2. The property is situated in Jalgaon City where there is Municipal Corporation.

3. It appears that in the year 2005, the application was moved by the present petitioner, tenant for appointment of Court Commissioner as defendant, present petitioner wanted to

bring on the record that plaintiff has other sufficient space and his requirement is not bonafide. It appears that some work was done by the Court Commissioner and he filed report also. It is the grievance of the petitioner that the work was not completed by the Commissioner and it was reported that premises was in locked condition. So, the application at Exh. 35 was again filed for appointment of Court Commissioner and for completion of so called incomplete work of Court Commissioner.

4. The defendant wants to bring on the record that the size of the description of the property having C.T.S. No. 2338/6 and plot NO. 7 situated in Datta Coloney, Jalgaon. When the property is situated in Corporation area there are many ways to bring on the record the relevant circumstances like city survey record and there is assessment record prepared by Local Body, the Corporation. In view of these circumstances, it can be said that it was unwarranted to appoint Court Commissioner in the matter like present one. The burden is on plaintiff to prove that his need is bonafide and the burden which the defendant is feeling could have been discharging by producing the record of aforesaid nature. It is clear that the present petitioner, defendant is playing delaying tactics and his only intention is to protract the decision of the eviction suit. It is even not necessary

to issue notice to the other side in the matter like present one. This Court holds that there is no need to interfere in the order made by the Trial Court Judge. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

SSC/