

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

WRIT PETITION NO. 3821 OF 2014

Raymond Limited

..Petitioners.

Vs

Mr. Ardeshir J. Irani and Ors

.. Respondents

Dr. V.V.Tulzapurkar, Senior Advocate a/w Nikhil Sakhardande i/b
M/s Wadia Ghandy & Co, Advocates for Petitioners.

Mr. Prasad K. Dhakephalkar, Senior Advocate, a/w Mr. P.S.Dani,
Senior Advocate a/w Mr. Saket Mone, Vishes Kalra a/w Subit
Chakrabarti i/b Vidhi Partners, Advocates for Respondents.

CORAM : R.G.KETKAR,J.
DATE : 15/06/2016

PC:

1. Heard Dr. Veerendra V. Tulzapurkar, learned senior counsel for the petitioners and Mr. P. K. Dhakephalkar, learned senior counsel for the respondents at length. Leave to convert this Writ Petition into Civil Revision Application is granted. Amendment shall be carried out within one week from today and amended slip shall be made over to other side.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.'), the petitioners have challenged the judgment and decree dated 16/17/18th February, 2005 passed by the learned Judge presiding over Court Room No.

16 of the Court of Small Causes at Bombay in T.E.&R. Suit No. 551/582 of 2001 as also the Judgment and decree dated 11.12.2013 passed by the Appellate Bench of the Court of Small Causes at Bombay in (P.S.C.C.2(b)(i) Appeal No.324 of 2005. By these orders, the Courts below decreed the suit instituted by the respondents under Section 41 of the Presidency Small Causes Courts Act, 1882 (for short, P.S.C.C.Act) read with section 3(1)(b) of the Maharashtra Rent Control Act,1999 (for short, 'Act').

3. In support of this Petition, Dr.Tulzapurkar raised following contentions.

(i) Notice issued by the respondents, hereinafter referred to as 'plaintiffs', dated 27.6.2000 is bad in law. The said notice pertains to the premises which are different from the suit premises, namely, ground floor of building, known as 'R.N.A. House' (Originally known as "Dady House") bearing Municipal No.1135/36, Ward 50/92, Veer Nariman Marg, Fort, Mumbai 400 023.

(ii) Suit was not instituted by all owners;

(iii) By letters dated 14.8.1979 and 18.10.1979, the defendants have applied for renewal of lease and since there is no response, lease deed is deemed to have been renewed. He therefore, submitted that the Courts below have not justified in decreeing the suit.

4. It is not in dispute that in view of Section 3(1)(b) of the Act, the defendants are exempt from applicability of the Rent Control Act as admittedly their paid-up share capital is more than Rs. One crore. The Courts below have concurrently held that the plaintiffs have validly terminated the tenancy of the defendants and that the defendants did not establish that the notice of termination is illegal. The Courts below also held that the plaintiffs' suit is not bad for nonjoinder or misjoinder of the parties. Having regard to the fact that paid up share capital of the defendants is more than Rs. One Crore, they are exempted from operation of the Rent Control Act. The Rent Act does not apply to the suit premises. The parties are governed by the provisions of the Transfer of Property Act, 1882. The learned trial Judge relied upon the decision of this Court in the case of Crompton Greaves Ltd Vs. State of Maharashtra, 2002 (2) Mah.L.J. 305. This Court held that Section 3(1)(b) of the Act is not arbitrary and violative of Article 14 of the Constitution of India. In view thereof, I do not find that the Courts below have committed any error. The petitioners were not in a position to demonstrate that the findings recorded by the Courts below are perverse being based on no evidence or that they are contrary to material on record. In the light of the aforesaid discussion, I do not find that the petitioner has made out any case for invocation of

powers under Section 115 of C.P.C. In the result, Application fails and the same is dismissed.

(R.G.KETKAR, J.)