

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

WRIT PETITION NO. 6132 OF 2016

Smt. Vijaylaxmi Shivram Redij
and 2 Ors

..Petitioners.

Vs

Ravishankar Vijayshankar
Sharma

.. Respondent

Mr.Shriram S. Redis, Advocate for Petitioners.
Ms. Snehal R. Modi, Advocate for Respondent.

CORAM : R.G.KETKAR,J.
DATE : 04/08/2016

PC:

1. Heard Mr. Shriram Redis, learned counsel for the petitioners and Ms. Snehal Modi, learned counsel for the respondent at length.
2. Rule. Ms.Modi waives service for the respondent. At the request and by consent of the parties, Rule is made returnable forthwith and petition is taken up for final hearing.
3. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as 'defendants', have challenged the Judgment and order dated 4.1.2016 passed by the Appellate Bench of the Small Causes Court below Exhibit-24 in Appeal No. 119 of 2012. By that order, the Appellate Court allowed the application preferred by the respondent-plaintiff for amending the plaint so as to claim mesne

profits/compensation as per Order 20, Rule 12(1) of C.P.C.

4. Learned counsel appearing for the parties state that the order passed today in Writ Petition No.6825 of 2016 will cover the controversy raised in this Petition.

5. In view thereof and for the reasons recorded in the order dated 4.8.2016 passed in Writ Petition No.6825 of 2016, this Petition is allowed. Hence, the following order.

(i) Impugned order dated 4.1.2016 is set aside and Application Exh.24 is restored to the file of the Appellate Court for deciding it afresh.

(ii) Mr Redis assures that within one week from today, the defendant will file reply and serve copy in advance on the other side during this period.

(iii) Rejoinder, if any, shall be filed within one week from service of reply by the defendant. The Appellate Court is requested to decide Application Exh.24 within two weeks after replies are filed. All contentions of the parties on merits are expressly kept open.

(iv) As amendment is already carried out in the plaint, while deciding the application the Appellate Court will also pass appropriate order in that regard. Liberty to apply to the Appellate Court for deciding the Appeal in time bound manner. If such application is made, Appellate Court will pass appropriate

order thereon.

(v) Rule is made absolute in the above terms.

(R.G.KETKAR, J.)