

Sequeira

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

WRIT PETITION NO. 8348 OF 2016

Mrs.Neela Yeshwant Thakoor .. Petitioner
Vs.
Mr.Milind Bhalchandra Patil. .. Respondent

***Along with
WRIT PETITION NO. 8349 OF 2016***

Mrs.Neela Yeshwant Thakoor .. Petitioner
Vs.
Mr.Pradeep Chandrakant Sawant. .. Respondent

Ms.Zenobia Irani, for the Petitioner in both petitions.
Mr.V.S.Kapse i/b Mr.Harshad Rajshirke, for the Respondent in both petitions.

***CORAM : N.M.Jamdar, J.
Monday, 5 December 2016.***

P.C. :

Heard learned counsel for the parties.

2. The Petitioner has challenged the orders dated 6 June 2016 passed by the Small Causes Court, Mumbai permitting the amendment to the Written statement by the Respondent-tenants. The learned counsel for the Petitioner submitted that the Respondent-tenants in the Written statement had stated that they are

residing in the suit premises, while by way of amendment contrary stand is sought to be placed on record that in view of the building being in dilapidated condition an oral request was made to the Petitioner for temporary shifting to another premises. The learned counsel submitted that the amendments moved at a belated stage after period of one and a half year.

3. Considering the scope of Article 227 of the Constitution of India and the nature of the proceeding from which the Writ Petition arises, interference is not possible unless there is a patent illegality or gross failure of justice. It is not for correcting every error of the trial Court that power of superintendence has to be exercised especially when the enactment has concisely not provided any appeal or revision. As far as the prejudice to the Petitioner is concerned, the cross-examination of the Petitioner is yet to commence. As far as the contention of the Petitioner that contradictory stands are taken, learned Small Causes Court Judge has rightly observed that the Respondent has not deleted his earlier statement and therefore, it is always open to the Petitioner to contend that the Respondent has taken contradictory stands if any, which the Respondent is entitled to contest. In view of these circumstances, no interference is warranted in the impugned orders. The Writ Petitions are accordingly rejected.

(N.M.Jamdar, J.)