

Sequeira

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

WRIT PETITION NO. 10223 OF 2016

Shree Laxmi Fabrics.

.. Petitioner

Vs.

Kamlesh Singh Harnam Singh Chowhan.

.. Respondent

Mr.V.K.Gupta, for the Petitioner.

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

Oral Order :

By this Petition, the Petitioner who is tenant, Appellant in Appeal No.248 of 2008 pending before the Appellate bench of Small Causes Court, Mumbai, has sought to challenge the order dated 23 November 2015 passed by the Appellate bench rejecting its application for appointment of an architect and the subsequent order dated 14 July 2016, of rejecting the Review Petition.

2. It is the contention of the learned counsel for the Petitioner that both the parties have submitted their report in the year 2010 and in the year 2016 the position on site has undergone a change.

3. The Appeal filed by the Petitioner is pending. Even the application for fixation of compensation is pending. Both the parties

have submitted their architect's report and it is for the Appellate bench to determine compensation as and by way of equitable arrangement between the parties. The Appellate bench will have to determine the compensation taking into consideration various parameters and the Architect's report, is just one of the parameters. If, during the hearing of the application for fixation of compensation, the Appellate bench is of the opinion that the valuer's / architect's report of the current date will be required for fixing compensation, the Appellate Court will no doubt call for such report. This decision is left to the Appellate bench to take. Therefore, I am not inclined to interfere with the impugned orders. The Writ Petition is disposed of.

(N.M.Jamdar, J.)