

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

WRIT PETITION NO.10998 OF 2015

**M/s. Associated Business Corporation : Petitioner
versus
M/s. Kundalia Industries : Respondent.**

**Mr. K R Parekh for the Petitioner.
Mr. Surendra Raja for the Respondent.**

**CORAM : R. M. SAVANT, J.
DATE : 06th January 2016**

P.C.

1 In the order dated 14/12/2015 passed in the above Petition the word “rested” appearing in line 6, to be substituted by word “vexed”. The said order dated 14/12/2015 to stand corrected accordingly.

2 The writ jurisdiction of this court is invoked against the order dated 14/08/2015 passed by the learned Judge of the Small Causes Court by which order the application (Exhibit 43) filed by the Petitioner herein for rejection of the main application being R.E.S. Application No.2/RES/2010 came to be rejected. The said RES Application has been filed by the Respondent herein for restoration of water supply to the suit premises. In terms of the scheme of Section 29 of the Maharashtra Rent Control Act, 1999, the Respondent had filed an interim application being Exhibit 8 referable to sub-section (7) of Section 29 for interim relief seeking restoration of the water

supply to the suit premises which was allegedly disconnected by the Petitioner. The said application (Exhibit 8) came to be rejected by the Trial Court by the order dated 04/08/2010. Aggrieved by the said order dated 04/08/2010, the applicant filed Revision Application which came to be allowed by the Appellate Bench of the Small Causes Court by the order dated 28/04/2011 by which order the application (Exhibit 8) was remanded back to the Trial Court for a fresh hearing. On remand the said application was once again rejected by the Trial Court by the order dated 13/07/2012. Against the said order the Respondent filed Revision Application No.94 of 2012. The said Revision Application came to be allowed by the Appellate Bench by the order dated 03/04/2013. The Respondent applied to the Mumbai Municipal Corporation and obtained a separate water connection as the Respondent was permitted to do so by the said order dated 03/04/2013. It seems that the Respondent has obtained the separate water connection from the Mumbai Municipal Corporation and consequently the water supply to the suit premises has been restored. It is in the light of the aforesaid conspectus of facts that the Petitioner herein filed the instant application (Exhibit 43) for dismissal of the main application on the ground that the cause of action for the main application does not survive in view of the fact that water supply has already been restored.

3 The Trial Court held that in terms of the scheme of Section 29 of

the Rent Act an enquiry is entailed as regards whether the tenant was in enjoyment of the essential supply of water and whether it was cut-off or withheld by the landlord. The Trial Court was of the view that merely because the interim application (Exhibit 8) has been allowed, that would not mean that enquiry has come to an end. The Trial Court therefore observed that enquiry under Section 29 of the Rent Act is still pending. The Trial Court further held that it cannot be said that the cause of action for filing the said application does not survive in view of the interim order passed by the Appellate Bench of the Small Causes Court.

4 In my view, having regard to the scheme of Section 29 of the Rent Act and especially having regard to sub-section (4) and (5) thereof, the order passed by the Trial Court that enquiry is required to be conducted cannot be faulted with. No case for interference in the writ jurisdiction of this Court is therefore made out. The above Writ Petition is accordingly dismissed. However, it is clarified that the RES Application filed by the Respondent would be considered on its own merits and in accordance with law uninfluenced by the dismissal of the instant Petition.

[R.M.SAVANT, J]