

Sequeira

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

WRIT PETITION NO. 4026 OF 2016

Sahakari Kelwani Mandal & anr. .. Petitioners
Vs
Arvind Kunj Co.Op. Housing
Society Limited. .. Respondent

Mr.Pralhad Paranjape a/w Nikhil Pawar, for Petitioners.
Ms.Ranjana Parikh, for the Respondent.

***CORAM : N.M.Jamdar, J.
Wednesday, 30 November 2016.***

P.C. :

Heard learned counsel for the parties. By the impugned order dated 5 May 2015, the learned Small Causes Court Judge Mumbai has permitted Respondent-Plaintiffs landlord to file additional examination-in-chief by way of affidavit. The objection is taken out by the learned counsel for Petitioners on the ground that the document sought to be introduced on record is produced with substantial delay. The impugned order passed is a discretionary order. Against such order passed by the Small Causes Court no revision or appeal is maintainable. The legislative policy behind not providing revision as enunciated by the decision of the Full bench of this Court in the case of *Bhartiben Shah Vs. Smt.Gracy Thomas and others – 2013 (2) Mah.L.J. 25*, is keeping in mind the time limit for disposal

of proceedings filed in Small Causes Court under the provisions of Maharashtra Rent Control Act, 1999. This legislative policy cannot be defeated by exercising power of superintendence in every case, unless it is demonstrated that the impugned order will result in gross failure of justice or is in flagrant abuse of procedure. Neither of the grounds exist. Petitioners will get an opportunity to contest the amendment on merit and it is already so provided by the learned Small Causes Court Judge in the impugned order. In the circumstances, no interference is warranted, the Writ Petition is rejected.

(N.M.Jamdar, J.)