

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

WRIT PETITION NO.11530 OF 2015

Smt. Bhanumati Keshrichand Jhaveri and ors. : Petitioners.

Versus

M/s. Johnson Dye works Private Limited. : Respondent.

Mr. J. Reis, Senior Advocate, a/w Mr. Rajesh Kakhare i/by Mr. Javed A Khan for the Petitioners.

Mr. M M Vashi, Senior Advocate a/w Shailesh Thakkar i/by Mr. Sean Wassoodew for the Respondent.

CORAM : R. M. SAVANT, J.

DATE : 03rd February 2016

P.C.

1 After arguing for some time, the learned Senior Counsel appearing on behalf of the Respondent Shri M M Vashi is agreeable to the impugned order dated 29/09/2015 being set aside and the matter being remanded back to the Appellate Bench of the Small Causes Court, Mumbai for a de-novo consideration of the Revision Application No.237 of 2015.

2 The learned Senior Counsel appearing on behalf of the Petitioners Shri J Reis has no objection to the said course of action being followed.

3 In view of the said statement, the need to give detailed reasons for setting aside the impugned order dated 29/09/2015 is obviated. Hence the following directions :-

- A] The impugned order dated 29/09/2015 passed by the Appellate Bench of the Small Causes Court, Mumbai is quashed and set aside and the matter is remanded back to the Appellate Bench of the Small Causes Court, Mumbai for a de-novo consideration of the said Revision Application No.237 of 2015.
- B] In so far as the said Revision Application No.237 of 2015 is concerned, the contentions of the parties including the contention of the Petitioners herein as regards the maintainability of the Application (Exhibit 42) are kept open for being urged before the Appellate Bench of the Small Causes Court, Mumbai.
- C] Since reliance was sought to be placed on various orders, decrees passed by this Court as well as the City Civil Court, Mumbai in various proceedings filed by one New Era Fabrics Pvt. Ltd., the Appellate Bench of the Small Causes Court, Mumbai would permit the parties to produce the said material or any other additional material they wish to rely in the said Revision Application and would decide the said Revision Application having due regard to the said material.

- D] On remand the parties to appear before the Appellate Bench of the Small Causes Court, Mumbai on 10/02/2016, and the Appellate Bench of the Small Causes Court, Mumbai to thereafter decide the said Revision Application No.237 of 2015 latest by 31/03/2016. It is expected of the parties that they would not apply for unnecessary adjournments as the issue involved is in respect of the liability to pay water charges to the Municipal Corporation of Greater Mumbai.
- E] Till the decision is rendered in the said Revision Application No.237 of 2015, no further steps to be taken pursuant to the order passed by the Trial Court allowing the Application (Exhibit 42).
- F] The above Writ Petition to accordingly stand disposed of.
- G] All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Associate/Sheristedar.

[R.M.SAVANT, J]