

Sequeira

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

WRIT PETITION NO. 11005 OF 2014

Zubin Harbin Jhaveri & anr.

.. Petitioners

Vs

Municipal Corporation of Mumbai & ors.

.. Respondents

Ms.Sonal Jhaveri, Petitioner No.2 in person.

Mr.Vinod Mahadik a/w Mrs.M.R.Bhoir – BMC – Respondent Nos.1
& 2.

Mr.Rahul Singh a/w Mr.C.D.Agrawal, for Respondent Nos.5 to 7.

***CORAM : N.M.Jamdar, J.
Friday, 30 September 2016.***

P.C. :

Heard Petitioner No.2 in person and learned counsel for Respondents.

The order was passed by the learned City Civil Court Judge on 15 February 2014 giving certain interim directions in the suit filed by Petitioners. Thereafter Petitioners moved a Notice of Motion No.1781 of 2012 seeking clarification in the order dated 15 February 2014. This clarification has been rejected by the impugned order.

2. It is the contention of the Petitioner No.2 in person that the order passed on 15 February 2014 was intended to include Room

no.9 and 10 of the concerned property, however, it is not included in the order passed on 15 February 2014. In the impugned order, while rejecting this contention learned Judge has only commented upon the roznama, but has not addressed himself to the issue whether the Room No.9 and 10 was intended to be included in the order dated 15 February 2014, as alleged. The learned Civil Judge will have to decide the application of the Petitioner, by considering the context in which the order was passed and will have to give the reasons for inclusion or non inclusion of these two rooms, since it is not possible to undertake this exercise for the first time in this Writ petition.

3. In the circumstances the Notice of Motion No.1781 of 2012 will have to be restored by quashing and setting aside the impugned order. Order accordingly. The learned City Civil Court Judge will consider the issue as stated above after giving opportunity to both the parties. It is made clear that I have not commented on the merits of the rival contentions and I have set aside the order because of lack of reasons. The Writ Petition is disposed of in above terms.

(N.M.Jamdar, J.)