

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

WRIT PETITION (ST) NO. 33036 OF 2016

M/s. Satya Trading Company

.. Petitioner

Vs

Shri Nikhil Mahendra Shah

.. Respondent

Mr. A. G. Damle senior Advocate a/w Mohan Tekavde, Mrs. Swati Tekavde, Nimet Sharma, Anjali Mishra and Dattatry Papal for the Petitioner.

Mr. Madhav Jamdar for the Respondent.

***CORAM : N.M.Jamdar, J.
Friday, 2 December 2016.***

P.C. :

. Not on board. Taken on production board by way of praecipe.

2. By this petition, the Petitioner has challenged the order passed by the Appellate Bench of the learned Small Causes Court Judge, dated 27 October 2016 and order passed by the learned Small Causes Court Judge dated 23 September 2016. By the impugned orders the Courts have permitted inspection of the premises in occupation of the Petitioner-tenant to be taken by the Respondent-landlord alongwith his architect.

3. The learned Senior Advocate for the Petitioner strenuously urged that once the inspection was permitted and inspite

of this order and inspite of the architect visiting the premises, no report was submitted and that witness of the Municipal Corporation has already stated that there is no Mezzanine Floor, which is the controversy in question. The learned counsel for the Respondent on the other hand submitted that the earlier architect is unable to tender a report and order granted inspection was never challenged.

4. The impugned order is purely interlocutory only granting inspection of the suit premises. Both the Small Causes Court Judge and Appellate Bench have found that such course of action will be in furtherance of the interest of justice. Considering the limited jurisdiction under Article 227 of the Constitution of India, I do not find that any failure of justice has occasioned nor there is any patent illegality in these two discretionary orders. The grievance of the learned counsel for the Petitioner regarding inconvenience caused to the Petitioner is however justified. The Respondent while carrying out the inspection permitted under the impugned order will pay a cost of Rs. 5000/- to the Petitioner. With this modification, the impugned orders are confirmed and the Writ Petition is disposed of.

(N.M.Jamdar, J.)