

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1530 OF 2015

SURESH PADMANABHA HEGADE	...Petitioner
<i>Versus</i>	
CHAMPALALJI FINANCE PRIVATE LTD.	...Respondent

....

Mr. J. Shamim, i/b. Shamim & Co., Advocate for the Petitioner.
Mr. P.K. Dhakephalkar, Senior Counsel i/b. Jaydeep Deo, for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 28th JANUARY, 2016

P.C.

1. Heard Mr. J. Shamim, learned Counsel for the petitioner and Mr. P.K.Dhakephalkar, learned Senior Counsel for the respondent, at length.

2. Rule. Learned Counsel for the respondent waives service. At the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

3. The petitioner, hereinafter referred to as 'defendant' has challenged the order dated 6.9.2012 passed by the learned

Judge, presided over Court Room No.32 of Small Causes Court at Bandra, Mumbai below Exh.10 in R.A.E. Suit No.124/149 of 2011 as well as the order dated 13.11.2014 passed by the Appellate Bench of Small Causes Court at Bandra, Mumbai in Misc. Appeal No.47 of 2013. By these orders the Courts below rejected the application made by the defendant for leveling the ground opposite to the premises in dispute and for making proper drainage in such a way that water does not accumulate in front of the suit premises; for direction to the respondent, hereinafter referred to as plaintiff to construct a meter box and put the meter safely so that there will not be problem of short circuit or damage to the meter.

4. So far as relief qua electricity meter is concerned, Mr. Dhakephalkar submits that the plaintiff has no objection if the defendant wants to shift the electricity meter to the suit premises. He submits that in case the defendant approaches the concerned authority, the plaintiff will not object and rather give consent for such shifting of the electricity meter.

5. Mr. Shamim states that the defendant will make an application to the concerned authority for shifting the electricity

meter and the expenses incurred by the defendant in that regard may be made subject to the outcome of the Suit. In view thereof, liberty is reserved with the defendant to make an application for shifting the electricity meter. If such an application is made, the defendant will give copy thereof to the plaintiff. The plaintiff in turn will give no objection for shifting the electricity meter at the costs of the defendant. The costs so paid by the defendant shall depend on the outcome of the Suit and learned trial Judge will pass appropriate order in that regard while deciding the Suit.

6. As far as prayer clause made by the defendant for leveling the ground opposite the suit premises is concerned, Mr. Shamim states that the defendant will take out appropriate application for removal of the debris and for making appropriate arrangement for drainage. Mr. Dhakephalkar submits that the defendant may be given liberty to make that prayer provided the debris are not already removed. In view thereof, the defendant is at liberty to make an application for removal of the debris if not already removed. All contentions of the parties in that regard are expressly kept open. In view thereof, the impugned

order stands modified in the above terms. Rule is made partly absolute. Writ Petition is disposed in above terms. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)