

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

WRIT PETITION NO.5809 OF 2016

Mrs. Hamida Ramzanali Rayani : Petitioner
versus
Shahzada Abbas Bhaisaheb Fakhruddin
and ors. : Respondents.

Mr. Kantilal H Kanojia for the Petitioner.
Mr. P K Dhakephalkar, Senior Advocate a/w Mr. Nanki Grewal i/by Wadia
Ghandy & Co. for the Respondent Nos.1 to 16.

CORAM : R. M. SAVANT, J.
DATE : 26th APRIL 2017

P.C.

1 The writ jurisdiction of this court is invoked against the order dated 17/12/2015 passed by the learned Judge of the Small Causes Court by which order the Application (Exhibit 19) filed by the Respondents herein i.e. the original Plaintiffs for amendment of the plaint came to be allowed and the plaint was permitted to be amended in terms of the amendments sought.

2 The Respondents/Plaintiffs have filed the Suit in question being RAE Suit No.635 of 2015 for eviction of the Petitioner/Defendant on the grounds mentioned therein. In prayer clause (a) the Plaintiffs have described the suit premises as being No.B-18 admeasuring 177 sq.ft situated at Mehta Industrial Estate, Old Anjirwadi, Off. Chapsi Bhimji Road, Mazgaon, Mumbai 400 010.

3 The Defendant has filed her written statement and taken a stand
that she is a joint tenant along with her son Samir. It was further stated in the
said written statement that the suit premises are the premises bearing No.H-
1/A situated on the ground floor admeasuring 342 sq. ft. built up equivalent to
32 sq.mtrs.

4 It is taking cognizance of what was stated in the written
statement, that the instant Application (Exhibit 19) came to be filed by the
Plaintiffs for amendment of the Plaint so as to incorporate the said facts and
substitute the number of the suit premises as also the area of the suit premises.

5 The said Application (Exhibit 19) came to be opposed to on behalf
of the Defendant.

6 The Trial Court has principally on the ground that the amendment
would result in a proper and complete adjudication of the Suit, deemed it
appropriate to allow the said Application (Exhibit 19). It is required to be
noted that the Suit is at the pre-trial stage and the amendment application was
moved immediately after the written statement was filed. Having regard to the
ground on the basis of which the said Application (Exhibit 19) came to be
allowed, in my view, interdiction of this Court in its writ jurisdiction under

Article 227 of the Constitution of India is not warranted. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]