

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10450 OF 2017

JC Steel & Co.	...Petitioner
<i>Versus</i>	
Raman B Doshi	...Respondent

Mr Jawahar J Thakkar, *for the Petitioner.*

CORAM: G.S. PATEL, J
DATED: 4th December 2017

PC:-

1. Heard.

2. The challenge is to an order dated 9th January 2017 passed by the Court of Small Causes at Mumbai rejecting an application below Exhibit 113 in RAE & R Suit No. 193/323 of 2004 where the Petitioner is the Defendant. The Petitioner sought to issue a witness summons to the Bombay Port Trust (“**BPT**”), not a party to the suit, on the basis that the BPT had earlier filed an eviction suit of 1980 in which Obstructionist Notice No. 80 of 1985 was filed, and in which the partner of the Petitioner, one Chandrakant Shah, was shown as obstructionist No. 47. According to the Petitioner, there were two different suits with different averments.

3. As I have noted, the BPT is not a party to the present eviction suit filed by one Raman Doshi. The Defendant said that he wanted

to issue a witness summons to the BPT. This application was made not at an appropriate stage but only when the matter was posted for final hearing. The Petitioner filed a rejoinder saying that while the averments in both suits were different, the premises were the same and, therefore, the witness should have been examined.

4. The Trial Court noted that this was an old suit of 2004 posted for final arguments and the present application was for issuance of witness summons against the BPT and its Estate Officer. There was no explanation as to why the Petitioner needed to examine the BPT. The fact of the previous proceedings was part of the record of the Court and a certified copy could always be produced. There was no need to examine a witness. He could add nothing to the pleadings already filed. In fact the Court said exactly this, i.e., that the parties could file certified copies of the suit papers in the eviction action filed by the BPT.

5. There is no infirmity demonstrated in the impugned order. There is certainly no perversity. The impugned order calls for no interference.

6. The writ petition is without any substance. It is rejected. No costs.

7. The Trial Court is requested now to proceed with the suit with utmost possible despatch. This being a suit pending for more than 10 years, it should be heard and decided on a priority basis.

(G. S. PATEL, J)