

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8150 OF 2017**

Fausta Sathyasilan & Anr	...Petitioners
<i>Versus</i>	
Hubert Fonseca	...Respondent

Mr Kunal Bhanage, *for the Petitioners.*
Mr Rohaan Cama, *i/b Sapana Rachure, for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 23rd November 2017

PC:-

1. Heard.

2. By consent, parties are agreed that leave to defend can and should be granted. This is without prejudice to the rights and contentions of both sides and solely in view of the wording of the statute, namely, Section 43 of the Maharashtra Control Act 1999 and the decisions on the subject.

3. Hence, leave to defend is granted. The impugned order dated 21st June 2017 is quashed and set aside as is the order dated 28th January 2017 of the Competent Authority. The Competent Authority is to take up Case No. 20 of 2016 on 14th December 2017. The Competent Authority will pass the necessary directions for the

filing of a written statement and for trial. The Competent Authority is requested to complete the trial and dispose of the matter at his earliest convenience and, in any event, by 3rd May 2018.

4. Before the Competent Authority the respondents will be entitled to file an application seeking an interim order for compensation. This will also be decided on its own merits. Finally, should either parties be required to file an appeal or revision, that will be dispose of within four months of it being filed and served.

5. Mr Cama points out that the respondent is not only a senior citizen but is in poor health. Should his evidence be required, the Trial Court will permit the evidence be recorded either by video conferencing or on commission, as agreed by the parties. Similarly, the evidence of the parties' witnesses who are brought will also be permitted by video conferencing subject to the necessary safeguards and consents.

6. Interim protection to continue until the final disposal of Case No. 20 of 2016 by the Competent Authority and for a period of four weeks thereafter, if the decision is adverse to the petitioner.

7. The Writ Petition is disposed of in these terms with no order as to costs.

(G. S. PATEL, J)