

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

**WRIT PETITION NO. 8627 OF 2013
WITH
CIVIL APPLICATION NO. 583 OF 2017
WITH
CIVIL APPLICATION NO. 1307 OF 2017**

Mrs. Meena Sagar Shah ...Petitioner
Versus
Mrs. Dolly Hirji Chaiwala And Ors. ...Respondent

**WITH
WRIT PETITION NO. 8628 OF 2013
WITH
CIVIL APPLICATION NO. 584 OF 2017
WITH
CIVIL APPLICATION NO. 913 OF 2017**

M/s Satyam Enterprises ...Petitioner
Versus
Mrs. Dolly Hirji Chaiwala And Ors. ...Respondents

Mr.Nitin P. Deshpande for the Petitioner/Applicant.

Mr.Indrayani M. Koparkar for the Respondents.

CORAM : M. S. SONAK, J.

DATE : 21st AUGUST 2017

P.C.

1. Instead of deciding the Civil Applications, in the facts and circumstances of the present case, it will be appropriate if the Writ Petitions are taken up for final disposal and disposed of. Both these Writ Petitions have been instituted by tenants who are in occupation of the premises which are set to be located within the

cantonment area, Pune. The petitioner-tenants contended that the provisions of the Maharashtra Rent Control Act, 1999 (the said Act) do not apply to the premises located in the cantonment area. We have pointed out that the issue as to whether the provisions of the said act apply to the premises located in a cantonment area or not is being considered by the Division Bench of this Court in Writ Petition No.2937 of 2011 and connected matters.

2. Since, it was expected that the issue would be sorted out one way or the other at an early date, this Court, had directed the Trial Court to proceed with the suit but not to pass any final orders until the disposal of the Writ Petition No.2937 of 2011.

3. Mr.Deshpande, the learned counsel for the applicant submits that the evidence in the two suits has already been recorded and the matter is only pending for final arguments. It is pointed out that the tenants continue to occupy the suit premises by paying old rents which are meagre. He points out that the Municipal taxes in respect of the suit premises are far in excess of the old rents. He points out that this is a fit case where the proceedings before the learned Trial Judge should be allowed to proceed to final conclusion and further some orders be made for suitable enhancement of the rent and for directions to the tenants to pay the Municipal taxes.

4. On the other hand, Ms.Koparkar the learned counsel for the tenant submits that since the issue of applicability of the said act is pending consideration, the tenants cannot be ordered to be evicted until such issue is determined. Further, points out that since there is no eviction decree against the tenants, there is no question

of seeking any enhancement of rent or any direction for payment of Municipal taxes. She submits that the tenants have in fact paid the Municipal taxes upto 2014 and thereafter, the landlords he have undertaken to bear the responsibility of the tenant. Mr.Deshpande however, disputes this position.

5. As of date, the proceedings are pending before the learned Trial Judge. It is too premature to conclude that some order of eviction is bound to be made or is likely to be made against the tenants. In case, the Trial Court, based upon the material on record comes to the conclusion that the landlord has not made out any case for seeking eviction, it is possible that the eviction proceedings are dismissed. At this premature stage, therefore, it is not necessary to stall proceedings before the Trial Court.

6. In case, the Trial Court, on the basis of the material on record does order the eviction of the tenants, some limited protection can always be extended to the tenants. Further, it is made clear that the tenants, in such a case will be entitled to agitate the issue of applicability of the said act.

7. In my judgment, this will be a more equitable manner to dispose of this petition by living intact the rights of either parties. Accordingly, both these petitions are disposed of.

8. The learned Trial Judge be directed to disposed of the eviction proceedings on their own merits and in accordance with law within a period of three months from the date of production of authenticated copy of this order. However, in case, the learned

Trial Judge orders the eviction of the tenants, such eviction decree, shall not be put into execution by the landlords for the period of three months. In the meanwhile, it shall obviously be open to the tenants to institute an appeal against the eviction decree and therein to raise the issue of applicability of the said Act to the suit premises.

9. With the aforesaid directions and liberty, both these petitions are disposed of.

10. The Civil Applications do not survive and the same are also accordingly disposed of.

(M. S. SONAK, J.)