

Sequeira

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

***CIVIL REVISION APPLICATION NO.503 OF 2016
Along with
WRIT PETITION (St.) NO.29158 OF 2016.***

Shant Snacks and Beer Bar.

.. Applicant

Vs

Chandrakant Shankarrao Pethkar & ors.

.. Respondents

Mr.R.A.Thorat – Senior Advocate a/w Girish Utangale, Nikhil Wadikar & Chetan Mhatre i/b Utangale & Co., for the Applicant in Civil Revision Application No.503 of 2016 and the Petitioner in Writ Petition (Stamp) No.29158 of 2016.

Mr.S.S.Patwardhan, for Respondents in Civil Revision Application No.503 of 2016 and Writ Petition (Stamp) No.29158 of 2016.

Partners of the Applicant / Petitioner -Mr.Kamlesh Shahani present in Court.

Jitendra Petkar, Respondent No.5 – present in Court.

Coram : N.M.Jamdar, J.

Date : 24 March 2017.

Oral Order :

These two matters were argued from time to time. The dispute between the parties is pending since long time. It is informed that six suits were filed between the parties. The dispute is regarding claim of tenancy. Though the dispute is narrow, due to the litigation which

has been going on, it has remained pending. Since comprehensive settlement of this dispute at an early date will be in interest of all the parties, it was put to the learned counsel whether the entire dispute can be resolved in one proceedings. The learned counsel for the parties, after taking instructions, have agreed to this course of action to curtail litigation on various fronts. Parties have agreed that the entire dispute between the parties be brought within the ambit of Civil Suit No.292 of 1996 and have accordingly prepared minutes of order which have been signed by the Advocates and also the parties. The minutes of order which have been signed by the learned counsel for the parties and also the parties are taken on record. As per the instructions of their respective clients, the learned counsel for the parties have requested for disposal of these two proceedings by following directions which they have agreed.

2. The stand taken by the learned counsel for parties is appropriate. Instead of taking various technical objections, which will only delay the proceedings, it is in interest of all, that full opportunity is given to all parties to put forward their rival contentions in one suit and the dispute is comprehensively decided.

3. By consent, Writ Petition and the Civil Revision Application are disposed of as under -

- a. The Petitioner in Civil Revision Application No. 503 of 2016 withdraws the said Civil Revision Application and also agrees to withdraw Civil Suit No.281 of 2015 pending before Small

Causes Court, Pune.

- b. The Petitioner will make appropriate Application for amendment in Civil Suit No.292 of 2006 for incorporating the subsequent events which were the subject matter of Suit No.281 of 2015 and will seek the reliefs claimed in Suit No.281 of 2015 as additional relief by way of amendment in Civil Suit No.292 of 2006.
- c. The Petitioners will withdraw Application below Exhibit -124 in Suit no. 296 of 2006 taken for permission to lead Secondary Evidence by making appropriate Application by furnishing additional information and if necessary seeking relief for permission to lead secondary Evidence in addition to Agreement of tenancy dated 10th May, 1988. The Trial Court will deal with same in accordance with law.
- d. That as and when an Application for amendment is made in Civil Suit No.292 of 2006 on behalf of Petitioner as mentioned hereinabove the trial court will deal with them as subsequent events.
- e. It is open to the Petitioner to establish his case including the question as to whether the Petitioner is tenant of open land admeasuring 4342 Sq Ft by producing on record all relevant documents pertaining to the same and also by placing reliance on same in the application for amendment.
- f. The Petitioner withdraws Application below Exhibit-108 in Civil Suit No.292 of 2006 with liberty to file similar

application.

- g. The Petitioner shall make appropriate application as mentioned hereinabove within a period of Three weeks from today.
 - h. The Trial Court will dispose off the application for amendment that may be filed by the Petitioner as early as possible and in any case within the period of six weeks from the date of filing the Application for amendment.
 - i. The Respondent may file Additional Written Statement after the Plaint is amended.
 - j. The Trial Court in view of the present minutes will permit Petitioner/Plaintiff to file Additional Affidavit of Examination-in-Chief.
 - k. The Trial Court shall decide and dispose off Suit No.292 of 2006 as early as possible and in any case within period of Nine months from today.
4. The Registry will send a copy of this order to the concerned Court forthwith.

(N.M.Jamdar, J.)