

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 392 OF 2017**

Harkishen Girdharilal Chavan	...Petitioner
<i>Versus</i>	
Hansa Villa Realty Pvt Ltd	...Respondent

Mr Vasanti S Dighe, for the Petitioner.
Mr Jaydeep Deo, for the Respondent.

CORAM: G.S. PATEL, J
DATED: 7th December 2017

PC:-

1. Heard.

2. This Writ Petition (originally filed as a Civil Revision Application and later allowed to be converted) is by the original defendant to an ejectment action. The order under challenge of 5th December 2016 of the appellate bench of the Small Causes Court was one that allowed the present respondents'/original plaintiffs' application to amend the plaint. The Trial Court disallowed the amendment application. The Appeal Court allowed the revision against that order and directed the Trial Court to consider the amendment application afresh uninfluenced by any of the opinions expressed either in the appellate order or in the original order.

3. There is actually no determination of the rights of the parties rights by the impugned order. All that the appellate bench did was to direct the Trial Court to hear the plaintiffs amendment application *de novo*. That application is yet to be decided. I am informed that the pendency of this Writ Petition has resulted in the entire suit being stalled. In fact, nothing has been decided and even the plaintiffs' amendment application is pending decision.

4. There is no call to enter into the merits of the amendment application in the Writ Petition. Indeed the appellate order is careful not to finally decide that application in any manner, as I have noted, and only directed to the Trial Court to hear the amendment application afresh.

5. There is no cause for interference. There is no irregularity, illegality or perversity in the impugned order. Indeed, it is an impeccably fashioned order that could hardly be bettered in the circumstances that were before the appellate bench.

6. The Writ Petition is rejected. There will be no order as to costs.

7. The Trial Court is directed to take up the amendment application and dispose of it within a period of six weeks from today.

8. All contentions are kept open.

(G. S. PATEL, J)