

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 681 OF 2018

BEVIT PHARMACEUTICALS PVT. LTD.,
REP. BY ITS AUT. DIRECTOR, FRANCIS
XAVIER D'SOUZA.,

... Petitioner

Versus

RUTH BEATRIZ DE SOUZA HENRIQUES
AND 2 ORS.,

... Respondents

Shri Ashwin D. Bhobe, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 28th June 2018

ORAL ORDER:

Heard Shri Bhobe, the learned Counsel for the petitioner.

2. The petitioner is challenging the order dated 22.03.2018, passed by the learned Rent Controller, under Section 53 of the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (Act, for short), authorising Advocate Hyder Khilji to inspect the suit house. That order has been confirmed in revision by the learned District Judge.

3. Shri Bhobe, the learned Counsel for the petitioner submitted that by an application under Section 53 of the Act, the respondents are trying to collect evidence, which is not permissible. It is submitted that even otherwise, certain

photographs and a report by a private Architect are already on record and it is for the respondents to substantiate the ground for non occupation of the suit house by the petitioner.

4. I have carefully considered the circumstances and the submissions made and I have gone through the order passed by the learned District Judge as well as the learned Rent Controller and I do not find that any case for interference is made out.

5. Without laying down any binding precedent, a bare perusal of Section 53 of the Act would show that the power is wider, than one available under Order XXVI, Rule 9 of CPC, in as much as, it speaks about the inspection of any building "for the purposes of any enquiry or proceedings under the Act". The fact whether, the suit house is occupied and is in a habitable condition, is a material issue, which falls for determination before the learned District Judge. The exercise of discretion of the learned District Judge cannot be said to be perverse, so as to require interference under Article 227 of the Constitution of India.

6. In the result, the petition is dismissed. It would be open to the petitioner to file an objection to the report, if necessary and if so advised. However, if such objection is filed, the learned Rent Controller shall decide the same on its own merits and in

accordance with law.

C. V. BHADANG, J.

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