

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

WRIT PETITION NO.3462 OF 2018

Smt.Bina Bilai Chowdhury

... Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Ors.

... Respondents

Mr.E.A. Limaye with Mukta G. for the Petitioner
Mr.Pradeep Patil for Respondent No.1 – Corporation
Mr.Sachin Ghewade, D.O., I/HIE – present

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JUNE 26, 2018**

P.C. :

1. This petition filed under Article 227 of the Constitution of India takes exception to the order dated 8.12.2017 passed by the learned trial Judge thereby dismissing the Notice of Motion No.3239 of 2017 in L.C. Suit No.1846 of 2017.
2. Heard submissions of the petitioner and the respondent No.1 Corporation. None appears for the respondent-landlords.
3. I have perused the prayers in the plaint. In fact, the plaintiff has filed the suit in the Small Causes Court against the landlord to

prove her right in the tenanted premises and that is a correct procedure to establish any claim where the relationship of tenant and landlord exists. In the suit, the plaintiff has sought a number of reliefs and the reliefs may be granted or denied on merits by the trial Court. However, in the Motion, she has asked for measurements of certain premises, which she claims in her possession due to the tenancy right. This Court does not want to give any finding or does not want to pass any observation in respect of right of the plaintiff-petitioner about the said suit premises. However, this petition can be disposed of with the following order:

- i) The respondent-Corporation is directed to measure the premises, as mentioned in the Notice of Motion and submit a report before the trial Court.
- ii) It is made clear that the measurement itself will not create any right or any claim in favour of the plaintiff.

4. Writ Petition is disposed of accordingly.

(MRIDULA BHATKAR, J.)