

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

WRIT PETITION NO.3132 OF 2018

Mukesh Raishi Chheda	... Petitioner
v/s	
Dhirajlal Raishi Chheda and others	...
Respondents	

**Mr Yahaya Ghogari I/b Mr Jatin Sheth for Petitioner.
Mr Hiralal J. Thacker, Sr. Counsel with Mr Prashant A. Sarwankar
I/b M/s Sarwankar and Co. for Respondent No.1.**

CORAM : B.P. COLABAWALLA, J.

DATE : 16 July, 2018.

P.C. :-

1. This Writ Petition has been filed seeking a direction to set aside the impugned order dated 20th February 2018 passed by the Trial Court. By the impugned order, the Trial Court rejected the Petitioner's Application at Exh.410 dated 22nd January 2018. To understand the controversy, a few facts need to be set out.

2. Originally, the Respondents herein had filed a license eviction Suit No.141/173 of 2008 against the original Defendant (since deceased) before the Trial Court seeking his eviction along

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with his family members. It is the contention of the Petitioner herein (the legal heir of the deceased original Defendant) that in that Suit, the Respondents herein had produced 107 bogus, forged, back dated rent receipts for the period from March 1981 to December 2000 (total period of 13 years and 10 months). When these 107 rent receipts were brought on record before the Trial Court, the original Defendant (since deceased) had preferred an Application Exh.127 before the Trial Court for sending all the alleged 107 rent receipts to the General Manager, India Security Press at Nasik for the purpose of scrutiny and verification. The Trial Court by its order dated 27th October 2010 only partly allowed the said Application by choosing only five of the alleged rent receipts for the aforesaid examination.

3. Being aggrieved by this order dated 27th October 2010, the original Defendant filed a Writ Petition before this Court being Writ Petition No.8965 of 2010. The Respondents herein also filed a counter Writ Petition No.949 of 2010 challenging the said order dated 27th October 2010 passed by the Trial Court. This Court by its common judgment and order dated 13th December 2010 allowed the Writ petition filed by the original Defendant (since deceased)

and dismissed the Writ Petition filed by the Respondents herein. It is the case of the Petitioner herein that by virtue of the order dated 13th December 2010, all the 107 rent receipts were sent to the India Security Press at Nashik for verification and the said India Security Press submitted its verification report dated 19th January 2011. It is the allegation of the Petitioner that after being faced this verification report, the Respondents changed their stand. I must mention here that I am not concerned with the aforesaid contention at this stage.

4. Be that as it may, the Petitioner herein thereafter filed two Applications being Exhs. 246 and 271 for the purpose of sending these 107 rent receipts for analysis and verification to the Directorate of Forensic Science Laboratory, Kalina, Santa Cruz, Mumbai. These Applications were dismissed by the Trial Court by its two separate orders both dated 25th October 2016. These orders of the Trial Court were challenged before this Court by filing two Writ Petitions being Writ Petition Nos.6258 and 6259 of 2017. Both these Writ Petitions were finally disposed off by this Court vide its order dated 27th June 2017. In this order, it has been recorded that the learned counsel for the Respondents, on taking

instructions, stated that his clients were agreeable to send all the 107 recent receipts to the Directorate of Forensic Science Laboratory, Kalina, Santa Cruz, Mumbai to determine / scrutinize the difference, if any, of the paper quality and ink on the revenue stamp of the rent receipts (107 in all) for the period from March 1987 to December 2000. In view of this statement, this Court set aside the impugned orders dated 25th October 2016 passed below Exhs. 246 and 271 respectively and all the 107 rent receipts were directed to be sent to the Directorate of Forensic Science Laboratory, Kalina, Santa Cruz, Mumbai.

5. Since there was some ambiguity as to the exact analysis of these 107 rent receipts, a Civil Application, being Civil Application No.2522 of 2017 came to be filed by the legal heirs of the original Defendant (the Petitioner herein). This Civil Application was also disposed off by this Court vide its order dated 27th November 2017 wherein it was clarified as under :-

“6. In view of this fair stand taken by Mr Thacker, the following order is passed :-

(A) It is clarified that all 107 rent receipts, which

collectively form a subject matter of these two Writ Petitions, are directed to be sent to the Directorate of Forensic Science Laboratory, Kalina, Santacruz to scrutinize the difference in paper quality inter se the 107 rent receipts, if any, and also the difference in the revenue stamp of the rent receipt and the hand-written contents in the body of the very same rent receipt.

- (B) The Forensic Science Laboratory, Kalina, Santacruz is requested to complete this exercise within a period of four weeks from the date of this order is communicated to it and thereafter file a verification report in the Trial Court in a sealed cover. The charges for the aforesaid exercise / verification shall be borne by the original Defendants, viz. Petitioners herein.
- (C) It is clarified that this order is passed without prejudice to all the contentions and without admitting any allegations and/or insinuations against the original Plaintiffs. It is further made clear that the Forensic Laboratory shall carry out this exercise as indicated above without being influenced by any observations of this Court either in this order or earlier orders which are only prima facie in nature.
- (D) All contentions with reference to the said report of Forensic Laboratory, Kalina, Santacruz are expressly kept open.
- (E) The Civil application is accordingly disposed off. No order as to costs. “

6. After this order came to be passed, all the 107 rent receipts were sent to the Directorate of Forensic Science

Laboratory, Kalina, Santacruz. Once the same were received by the said Directorate, Forensic Science Laboratory, Kalina, Santacruz, a letter was issued to the Registry of the Court of Small Causes at Mumbai stating therein that as per a Government Resolution, to analyse all 107 rent receipts, the total cost would be approximately Rs.10,95,787/- .

7. Finding that the cost of analysis was on the higher side, the Petitioners herein therefore preferred an Application below Exh.410 dated 22 January 2018 inter alia praying that despite all the rent receipts being sent to the Forensic Science Laboratory, Kalina, Santacruz, only 7 rent receipts be scrutinized, the details of which have been set out in prayer clause (a) of Exh.410 (page 52 of the paper-book). This Application was dismissed by the Trial Court vide its order dated 20th February 2018. It is in these circumstances that the present Writ petition has been filed.

8. After hearing the learned counsel for both the parties, Mr Thacker, learned Sr. Counsel appearing on behalf of the Respondents has stated that he has no objection if the impugned order is set aside and the Application of the Petitioners which is annexed at Exh.'E' (pages 47 to 53 of the paper-book) is allowed in

terms of prayer clauses (a) to (d) thereof.

9. Considering the submissions made by Mr Thacker, the impugned order dated 20th February 2018 passed by the Trial Court is quashed and set aside and the Application filed by the Petitioners (being Exh.410) is allowed in terms of prayer clauses (a) to (d) which read thus :-

“(a) that this Hon'ble Court be pleased to direct the Directorate of Forensic Laboratory, at Kalina, Mumbai to specifically and categorically scrutinize only 7 (seven) rent receipts out of total 107 (bogus) rent receipts bearing its serial numbers and exhibits numbers mentioned herein below :-

Sr.No. Appearing on	Exhibit
Rent Receipt	No.
1098	55(92)
1122	55(95)
1146	55(98)
1154	55(99)
1010	55(81)
1042	55(85)
1058	55(87)

- (b) that this Hon'ble Court be pleased to direct the Directorate of Forensic Science Laboratory, at Kalina, Santacruz, Mumbai to scrutinize the difference in paper quality inter se of the 7 rent receipts, if any, and also the difference in the ink used on the Revenue Stamp of the rent receipt and the hand-written contents in the body of the very same rent receipt.
- (c) that this Hon'ble Court be pleased to allow the Defendant Mukesh Raishi Chheda to pay the verification charges directly to the Forensic Laboratory, At Kalina, Santacruz, Mumbai.
- (d) that this Hon'ble Court be pleased to direct the Directorate of Forensic Science Laboratory to submit their investigation and verification report to this Hon'ble Court within a period of two weeks upon the receipt of the order of this Hon'ble Court.”

10. Needless to clarify that all contentions of all the parties are expressly kept open.

11. Considering that this matter is pending for quite a while, the Trial Court is requested to hear this matter as expeditiously as possible and in any event within a period of three months from the date of receipt of the report from the Directorate of Forensic Science Laboratory, Kalina, Santacruz.

12. The Directorate of Forensic Science Laboratory, Kalina,

Santacruz is also requested to scrutinize the seven rent receipts as more particularly mentioned prayer clause (a) of Exh.410 as expeditiously as possible and in any event within a period of two weeks from the date of the receipt of a copy of this order.

13. Both the parties are at liberty to bring to the notice of the said forensic Science Laboratory, Kalina, Santacruz a copy of this order. All parties to act on the authenticated copy of this order.

14. The Writ Petition is disposed off in the aforesaid terms. Considering that the Petitioner himself had asked for the 107 rent receipts to be sent for scrutiny and now is seeking only for seven rent receipts to be scrutinized and it has resulted in considerable wastage of time, the Petitioners are directed to pay costs of Rs.10,000/- to be paid to the Kirtikar Law Library, High Court, Bombay and deposit the receipt evidencing the payment of costs in the Registry within a period of one week from today.

B.P. COLABAWALLA, J

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Vijay
Raghunath
Date

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