

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3868 OF 2018

EEPC India (Formerly Engineering Export Promotion Council)	...	Petitioner
Vs.		
Office of the Additional Commissioner, Konkan Division and others	...	Respondents

Mr. P. J. Thorat a/w. Mr. M. Siganporia, Mr. S. Ghosh, Mr. Samarth
Chowdhary, Mr. Rohil Bandekar i/b. M/s. Hariani & Co. for Petitioner.
Mr. A. P. Wachasundar for Respondent No.3.

CORAM : R. G. KETKAR, J.
DATE : APRIL 10, 2018

P.C. :

Heard Mr. Thorat, learned Counsel for the petitioner and
Mr. Wachasundar, learned Counsel for the respondent No.3 at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 08.03.2018 passed by the Additional Commissioner, Konkan Division, Mumbai (for short 'Commissioner') in Revision Application No.131 of 2018. By that order, the Commissioner declined to grant stay to the order dated 10.01.2018 passed by the Competent Authority (Rent Control), Konkan Division, Mumbai (for short 'Competent Authority') as also declined to stay further proceedings before the Competent Authority.

3. In support of this Petition, Mr. Thorat submitted that after the Commissioner decided Revision Application on 31.07.2017, respondent No.3 filed application dated 02.08.2017 praying for carrying out consequential amendment as proposed in paragraph 2 of the application. He submitted that initially, proceedings under Section 24 were filed by Ms Savitri Dubey and after her death, respondent No.3 was brought on

record. Accordingly, proceedings under Section 24 were amended and respondent No.3 was brought on record. He submitted that petitioner's witness was under the cross-examination and at that time, application dated 02.08.2017 was made. He invited my attention to the reply dated 13.09.2017 filed on behalf of the petitioner. He submitted that by the proposed amendment, respondent No.3 intended to bring on record pleadings which the petitioner has prayed for striking out from his affidavit of evidence dated 26.09.2016. In other words, by the proposed amendment, respondent No.3 wants to fill in lacuna. The Competent Authority, however, by order dated 10.01.2018, allowed the application on the ground that after the order dated 31.07.2017 of the Commissioner, application was filed on 02.08.2017 and consequently, it cannot be said that there was delay on the part of the third respondent. He submitted that as the proposed amendment is to fill in the lacuna, the Competent Authority was not justified in allowing that application. He further criticized the order of the Commissioner on the ground that while declining to stay order dated 10.01.2018 and further proceedings before the Competent Authority, Commissioner did not assign any reason.

4. On the other hand, Mr. Wachasundar supported the impugned order.

5. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. For the reasons separately recorded in the order passed today in Writ Petition No.3867 of 2018, I have already upheld the order dated 10.01.2018 passed by the Competent Authority on application dated 06.03.2017. That apart, against the order dated 15.03.2017 passed by the Competent Authority, rejecting the application dated 06.03.2017

made by the petitioner for taking additional written statement on record as also for rejecting the prayer for striking out irrelevant portion of affidavit of evidence dated 26.09.2016, the Commissioner partly allowed the application only to the extent of taking additional written statement on record. In view thereof, I do not find that the Competent Authority committed any error in allowing the application dated 02.08.2017 made by the respondent No.3. The Competent Authority also did not go into the merits of the proposed amendment. The Competent Authority relied upon the decision of the Apex Court in ***Rakesh Kumar Aggarwal Vs. K. K. Modi, 2006 (4) SCC 385***. In view thereof, I do not find that the Commissioner committed any error in passing the impugned order on 08.03.2018. Hence, Petition fails and the same is dismissed.

6. At this stage, Mr. Thorat applies for continuation of order dated 27.03.2018 for a period of 4 weeks from today. Mr. Wachasundar opposes this application on the ground that the proceedings are also expedited by this Court. As this Court has expedited the proceedings under Section 24 before the Competent Authority as also in view of the fact that as per Section 43(4)(c), the summary proceedings under Chapter VIII are required to be disposed of as early as practicable and as far as possible Competent Authority has to proceed with the hearing from day to day and decide the application as far as may be within 6 months of the order granting of such leave to contest the application, oral application made by Mr. Thorat is rejected. Order accordingly.

(R. G. KETKAR, J.)