

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3869 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.132 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 invited my attention to the application dated 03.08.2017 made by the petitioner for framing additional issue i.e. whether the application is bad for non-joinder of necessary parties and upon framing of additional issue, seeking permission to the parties to adduce evidence with respect to the additional issue.

4. Mr. Thorat submitted that in the application, petitioner contended that original applicant Ms Savitri Dubey passed away on 29.06.2016 and she is survived by daughter Ms Neelima and son Nirajkumar Dubey. However, only respondent No.3 is brought on record. In other words, all the legal heirs of Savitri Dubey, since deceased, were not brought on record. It is in that context, petitioner filed application dated 03.08.2017 for framing issue as to whether the application is bad for non-joinder of necessary parties. He submitted that the other legal representatives of the deceased Savitri Dubey are necessary party and therefore, application was made for framing this additional issue and for additional evidence with respect to the additional issue. The Competent Authority, however, rejected the application on 10.01.2018 on the ground that the other legal representatives of the deceased Savitri Dubey are neither necessary nor proper party. Petitioner also did not show any prejudice was caused to it by not bringing other legal representatives on record.

5. Mr. Thorat submitted that petitioner has instituted Declaratory Suit in the Small Causes Court. In that proceedings, respondent No.3 raised objection to the effect that petitioner has not impleaded all the legal representatives of deceased Savitri Dubey. He, therefore, submitted that the order dated 10.01.2018 passed by the Competent Authority deserves to be set aside. In any event, by the impugned order dated 08.03.2018, the Commissioner did not assign any reason declining stay to the order dated 10.01.2018 and declining stay to the further proceedings before the Competent Authority. He, therefore, submitted that Petition requires consideration.

6. On the other hand, Mr. Wachasundar supported the impugned order. He invited my attention to reply dated 22.08.2016 filed by the petitioner to the application dated 25.07.2016. By that reply, petitioner

gave no objection for bringing respondent No.3 on record on account of death of original applicant Savitri Dubey. He also invited my attention to order dated 20.09.2016 passed by the Competent Authority which records no objection of the petitioner. He, therefore, submitted that no case is made out for interfering with the impugned order.

7. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. It is not in dispute that respondent No.3 Nirajkumar Dubey is a son of Savitri Dubey, since deceased. After her death, application was made on 25.07.2016 for bringing him on record. On 22.08.2016, petitioner filed reply giving no objection. This aspect was considered by the Competent Authority and accordingly, on 26.09.2016, order was passed allowing the application for amendment and bringing respondent No.3 Nirajkumar Dubey on record. Even otherwise, it is well settled position of law that one of the co-owners can maintain proceedings for eviction. In view thereof, I do not find that the Competent Authority committed any error in rejecting the application for framing additional issues. For the reasons recorded in paragraph 6 of the order dated 10.01.2018, I do not find that the Competent Authority committed any error and resultantly Commissioner committed any error by passing impugned order on 08.03.2018. Hence, Petition fails and the same is dismissed.

8. 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.)

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