

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 12586 OF 2018**

Nitin V. Merchant	]	Petitioner
Vs.		
M/s. Vandana Builders through its partners	]	Respondents

**WITH
WRIT PETITION NO. 12588 OF 2018**

Vrushali Pramod Rajpurkar	]	Petitioner
Vs.		
M/s. Vandana Builders through its partners	]	Respondents

WRIT PETITION NO. 12589 OF 2018

Mukesh Goda	]	Petitioner
Vs.		
M/s. Vandana Builders through its partners	]	Respondents

WRIT PETITION NO. 12629 OF 2018

Kantaben Nenshi Dedhia	]	Petitioner
Vs.		
M/s. Vandana Builders through its partners	]	Respondents

WRIT PETITION [ST] NO. 30498 OF 2018

Neela M. Sanghvi	]	Petitioner
Vs.		
M/s. Vandana Builders through its partners	]	Respondents

WRIT PETITION [ST] NO. 30501 OF 2018

Dineshchandra C. Timbadia	]	Petitioner
Vs.		
M/s. Vandana Builders through its partners	]	Respondents

WRIT PETITION [ST] NO. 30504 OF 2018

Narayan Hari Kumbhar] Petitioner
Vs.
M/s. Vandana Builders through its partners] Respondents

WRIT PETITION [ST] NO. 30520 OF 2018

Ambadas A. Kapote] Petitioner
Vs.
M/s. Vandana Builders through its partners] Respondents

WRIT PETITION [ST] NO. 30525 OF 2018

Suryakant B. Chavan] Petitioner
Vs.
M/s. Vandana Builders through its partners] Respondents

WRIT PETITION [ST] NO. 30530 OF 2018

Lalit Harilal Vibhakar] Petitioner
Vs.
M/s. Vandana Builders through its partners] Respondents

WRIT PETITION [ST] NO. 30531 OF 2018

Chandrika S. Jobanputra] Petitioner
Vs.
M/s. Vandana Builders through its partners] Respondents

.....
Mr. Piyush M. Shah, for Petitioners.
Mr. Yogesh Naidu a/w Ishan Srivasava i/b Neelam Pawar, for Respondents.
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CORAM : R.G. KETKAR, J.

DATE : 30TH OCTOBER, 2018.

P.C.

Not on board. At the request of Mr. Shah, taken up in the production board.

2. Heard Mr. Shah, learned Counsel for the petitioners and Mr. Naidu, learned Counsel for the respondents.

3. These Petitions challenge the orders dated 27th August, 2018 passed by the learned trial Judge. By the first order dated 27th August, 2018, the learned trial judge rejected the applications filed by the defendants to modify the issue. By the second order dated 27th August, 2018, the learned trial Judge deleted additional issue framed on 3rd August, 2018.

4. Mr. Naidu has raised preliminary objection to the maintainability of these Petitions on the ground that in terms of paragraph 86 (v) of Full Bench decision in **Bharatiben Shah Vs. Gracy Thomas, 2013 (2) Mh.L.J. 25** which reads thus,

“(v) an order for deleting an issue pertaining to rights or liabilities under the Rent Act, or any other substantive law”

the petitioner has equally efficacious alternate statutory remedy of filing revision applications before the Appellate Court of Small Causes at Mumbai challenging the impugned orders.

5. In view thereof, on the motion made by Mr. Shah, Petitions are allowed to be withdrawn with liberty to file Revision Applications before the Appellate Bench of the Court of Small Causes at Mumbai and as such are disposed of. All contentions of the parties are expressly kept open excepting maintainability of the Revision Applications. By way of abundant caution, it is clarified that the respondents shall not raise contention as regards maintainability of the Revision Applications challenging the orders dated 27th August, 2018 passed by the learned trial Judge. Order accordingly.

[R.G. KETKAR, J.]