

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3634 OF 2018

Shri. Navshya Laxman Pardhari

...Petitioner

Versus

Smt. Champa Vinod Gupta and anr.

...Respondents

Mr.Anil Dsouza for the petitioner.

Mr.Sujit Pathak i/b. Mr. Shambhu M. Jha for respondent no.1.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 21st JUNE 2019.

P.C. :

1. The petitioner is the landlord, and the respondents are the tenants. Initially, the respondents suffered a decree of eviction. But soon, they applied under Order 9 Rule 13 before the trial Court. They maintained that the decree was *ex parte* and must be set aside. Then, the trial Court held that it was a decree on merits, and an application under Order 9 Rule 13 would not lie.

2. Aggrieved, the tenants filed Miscellaneous Civil Appeal No.69 of 2017 before the District Court. On merits, the District Court

reversed the trial Court's findings and held that the decree was, in fact, *ex-parte*. After setting aside the decree, the District Court directed the trial Court to try the matter on merits "if the tenants filed the written statement and decide to contest the case." Questioning the District Court's order, the landlord filed this writ petition.

3. Before the petitioner's Counsel could advance his arguments, I suggested to him whether the landlord would go on with the matter if this Court observes that the tenants should seek no adjournment to drag the proceedings before the trial Court, and that the trial Court would complete the case expeditiously. The learned counsel on instructions has submitted that the landlord is willing for that arrangement.

4. On the tenants' part, their counsel has also assured the Court that the tenants will cooperate with the trial Court and see that the matter is disposed of expeditiously.

5. Under these circumstances, without affecting the impugned order, I disposed of this writ petition holding:

ORDER

- a. The Trial Court will proceed with the suit as directed by the District Court in its order, dated 18th December 2017.
 - b. The tenants should not seek adjournment and, instead, be ready with the matter as per the trial Court's convenience.
 - c. Once the parties produce a copy of this order, the trial Court will fix a date for further proceedings. Then, within two weeks thereafter, the tenants shall file their written statement if any.
 - d. As the suit belongs to 2007, the trial Court will try to dispose it of early, preferably in one year.
 - e. As the landlord insists that the trial Court should proceed with the matter uninfluenced by the observations made by the District Court or by this Court, I reckon that be so.
- With the above arrangement, I dispose of the writ petition.

[DAMA SESHADRI NAIDU, J.]