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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8569 OF 2021**

Titagarh Industries Ltd.

...Petitioner

V/s.

The New India Assurance Company Ltd.

...Respondent

Mr. P.S. Dani, Sr. Advocate i/b SSB Legal and Advisory for the Petitioner.

Mr. V.Y. Sanglikar a/w. Ms Vaishali Ugale for the Respondents.

CORAM : G. S. KULKARNI, J.

DATE : DECEMBER 06, 2021.

PC :

1] Heard Mr. P.S. Dani, learned senior advocate for the petitioner and Mr. V.Y. Sanglikar, learned counsel for the respondent.

2] The challenge in this petition is to an order dated 20.9.2021 passed by the learned Estate Officer whereby an application filed by the petitioner praying that a preliminary issue be framed on the jurisdiction of Estate Officer to entertain eviction proceedings against the petitioner has been rejected by learned Estate Officer, observing that the issue on jurisdiction would be decided along with other issues in finally disposing of the proceedings.

3] Opposing this petition, Mr. V.Y. Sanglikar, learned counsel for the respondent, has placed reliance on three orders passed by this Court (i) Shapoorji Pallonji and Company Pvt. Ltd. Vs. New Indian Assurance Co. Ltd. (Writ Petition No. 1811 of 2018 decided on 18.9.2018, (ii) Bharat Petroleum Corporation Ltd. Vs. The Estate Officer, The New India Assurance Co. Ltd. and anr. (Writ Petition No. 6744 of 2015 decided on 14.9.2015) and (iii) Indo-German Chamber of Commerce Vs. United India Insurance

Company Ltd. And anr. (Writ Petition No. 438 of 2019 decided on 20.6.2019), to contend that this Court has taken a consistent view in similar situations that had the question of jurisdiction being a mixed question of law and fact shall be decided along with other issues and hence, the writ petitions challenging similar orders passed by the Estate Officer were not entertained.

4] Mr. Dani would not join any issue on such orders which are passed by this Court. He would also agree to the position that such issue can be decided along with other issues. His grievance is that there are certain observations which are made on merits and which should not come in the way of the petitioner in the final adjudication of the proceedings by the Estate Officer and that the Estate Officer should decide the proceedings without being influenced by such observations.

5] In my opinion, the findings as rendered by Estate Officer in the impugned order are required to be considered limited and confined only to prayers of the petitioner as made in the petitioner's application which was made praying for framing of the preliminary issue. The Estate Officer, accordingly, shall consider the case of the petitioner on its own merits and adjudicate the same without being influenced by the observations, if any made in the impugned order. The petition is accordingly, disposed of subject to aforesaid discussions.

6] All contentions in the pending proceedings are expressly kept open.

7] The proceedings before the Estate Officer are adjourned for 8.12.2021 Mr. Dani informs that it may not be possible for the petitioner to proceed with the cross-examination of the respondent's witness on the said

day. Mr. Dani submits that the proceedings be now deferred to 15.12.2021. Mr. Sanglikar would have no objection.

8] The petitioner however, shall cooperate in the early disposal of the proceedings.

9] No costs.

(G. S. KULKARNI, J.)