

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7631 OF 2021

Jamdar Mohammed Sultan ...Petitioner
V/s.
Karamshi Monshi Since Dec Thr Legal
Heirs ...Respondent

Ms. Eventa A. Gonsalves a/w. Mr. Reyden L. Gonsalves for the
Petitioner.
Mr. Jaydeep Deo for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATED : 12th SEPTEMBER, 2023

P.C.:

1. This Writ Petition is filed challenging the judgment and order dated 13th October, 2021 passed by Division Bench of the Small Causes Court on Exhibit-27 in Appeal No.236 of 2014.
2. By order dated 13th October, 2021, the Division Bench of the Small Causes Court allowed the Application of the Respondent herein (original defendant), thereby allowing him to amend his Appeal memo filed before the Division Bench of the Small Causes Court, by adding few more grounds.
3. The Petitioner (Original land-lord/Plaintiff) being aggrieved by this order dated 13th October, 2021 has filed the present Petition.

4. By order dated 15th November, 2021 interim relief in term of prayer clause (b) was allowed. The prayer clause (b) of the Petition as reads as under :-

“That pending the hearing and final disposal of this Writ Petition, the operation of the impugned order dated 13-10-2021 passed on Exhibit ‘27’ in Appeal No. 236 of 2014, be stayed;”

5. Thereafter the original Respondent in the Writ Petition (Tenant), filed an interim application bearing No.340 of 2022 seeking certain clarifications. The said interim application was disposed of after hearing both the sides on 4th February, 2022, the said order dated 4th February, 2023 reads as under :

“1. I have briefly considered the submissions of the learned Advocates for the respective sides.

2. Both the sides intend to canvass extensive submissions and as such, the petition which is admitted, may have to be heard finally.

3. For the present, as this Court has earlier granted relief vide order dated 15/11/2021 and since the impugned order dated 13/10/2021 by which the Appellate Court had granted the appellant leave to amend, has been stayed, the hearing of Appeal No.236 of 2014 will also have to be adjourned till this issue is decided, lest, the appeal might get decided prior to the issue of grant of amendment being decided by this Court.

4. In view of the above, this interim application is disposed off. In addition to the relief granted on 15/11/2021, the Appellate Court would note that the said Appeal No.236 of 2014 would be considered after the writ petition is decided.”

6. After the matter was argued for some time. The parties

have arrived to a common consent thereby the present Writ Petition is disposed of in terms of following directions :-

i. The Respondent (tenant) is allowed to amend his Appeal bearing No.236 of 2014 as per the direction given in order dated 13th October, 2022.

ii. The Petitioners herein (landlord) is allowed to agitate the issues on the grounds of the documents as annexed to their reply dated 22nd September, 2021 to the amendment Application (Exhibit '27').

iii. The Division Bench of the Small Causes Court to make an endeavour that Appeal No.236 of 2014 be heard and disposed within a period of three weeks from today. The Respondent/Original tenant has given an undertaking to this Court through their advocate that they will cooperate for the earlier disposal of the Appeal and will not seek any adjournment on frivolous ground.

7. It is also made clear that the Respondent herein (Original Tenant) will now not make any further application for amendment to the grounds of Appeal to written statement.

8. The parties are directed to appear before the Small Causes Court on 20th September, 2023 on 11.00 a.m. morning.

9. The Present Writ Petition is accordingly disposed of. Parties to act an authenticated copy of this order.

(RAJESH S. PATIL, J.)