

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.225 OF 2024

Sudha Jayshankar Pillai Thr.
P.O.A. Amish Ashwin Shah and Anr. ... Petitioners

V/s.

Surendra Pratap Singh ... Respondent

SHARADA
RANGNATH
WAHULE

Digitally signed by
SHARADA
RANGNATH WAHULE
Date: 2024.01.10
14:54:53 +0530

Mr.Abhay Thorat, Advocate for the Petitioner.

CORAM : RAJESH S. PATIL, J.

DATED : 8 JANUARY 2024

P.C.:

1. This Writ Petition filed under Article 227 of the Constitution of India challenging the impugned Judgment and Order dated 24 November 2023, passed by the Appellate Bench of the Court of Small Causes, at Mumbai in Revision Application No.84 of 2022.
2. The present Petitioners are arrayed as defendant in and R.A.E. suit, for eviction filed by the Respondent herein.
3. By an Interim Application (Exhibit-87) the Respondent/Plaintiff sought inspection of the suit premises, under the provisions of Section 28 of the Maharashtra Rent Control Act. The said Application of the plaintiff was dismissed. Hence, the plaintiff filed revision before the Appellate Bench of the Court of Small Causes. The Appellate Bench of the court of Small Causes by its Order dated 24 November, 2023 allowed the Revision Application,

thereby allowing Exhibit-87 for inspection of the suit premises. In the present Writ Petition the said order passed by the Appellate Bench is challenged by the original defendant.

4. Mr. Thorat pointed out to this Court the issues framed by the Trial Court and more particularly issue No.6.

5. Mr. Thorat also further harped on the submissions made in the plaint, as regards the grounds of eviction. Mr. Thorat also laid emphasis on the fact that there is no relationship of landlord and tenant between the parties. He further submitted that recording of evidence has already started, and his client the original defendant is in the witness box for last 10 years. Therefore, according to him, the plaintiff cannot be allowed to take inspection of the premises, at this stage.

6. I have heard Mr. Thorat. He has taken me through the contents of the plaint and the impugned order. Section 28 of the Maharashtra Rent Control Act allows the landlord to take inspection of the premises let or given on license, after giving prior notice to the tenant, licensee or occupiers.

7. Section 28 does not restrict the landlord, as to when he is entitle to inspect the premises, and when the eviction suit is pending any restrictions are not imposed on the landlord for not taking inspection.

8. Though the defendant has denied the relationship with the landlord, however according to me, it will be the issue to be decided at trial. Once a person files a eviction suit on the grounds as mentioned in the Maharashtra Rent Control Act, he cannot be

disentitled from taking a simpliciter inspection of the suit premises.

9. In the present case petitioner / defendant is not able to show any perversity in the impugned order passed by the Appellate Bench. In such a situation without prejudice to the rights and contentions of the parties as regards the relationship between them, the original plaintiff is permitted to take inspection of the suit premises. The Order dated 24 November, 2023 passed by the Appellate Bench in a Revision Application No.84 of 2022 is hereby confirmed. There are no merits in this Writ Petition.

10. This Writ Petition is dismissed with cost of Rs.5,000/- to be paid to Kirtikar Law Library within a period of three weeks from today. The Petitioners are directed to produce the receipt of the payment before the concern Registrar of Trial Court.

(RAJESH S. PATIL, J.)