

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 3903 OF 2024

Bharat Mayabhai Shah ...Petitioner
Versus
Matri Seva Sadan Charity Trust And Ors ...Respondents

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Adv. Neel Gala for the Petitioner.

CORAM : RAJESH S. PATIL, J.

DATED : 19 MARCH 2024

PC.:

1. This writ petition challenges the impugned order dated 3 February 2024 passed by the Appellate Court of the Small Causes, by which the order dated 18 January 2023 passed below exhibit-14 in eviction suit by the Trial Court was confirmed.

2. Initially after hearing Mr. Gala, and after going through the documents on record, I had asked Mr. Gala, whether he wishes to withdraw this Writ Petition. To which Mr. Gala replied that he does not have the necessary instructions to withdraw the Writ

Petition, and he wishes to argue the Writ Petition on merits.

3. The petitioner herein is a defendant in an eviction suit. In the said eviction suit the petitioner/original defendant filed an application exhibit-14 for direction to the defendant to give inspection of documents. The said application of the petitioner was dismissed by the Trial Court and was also further dismissed by the Appellate Court on the grounds that the suit for eviction is filed under the Rent Act on the grounds of “*bona fide requirement*” and “*unauthorized additions and alterations*”. In the application filed (exhibit-14), the applicant had sought inspection of certain documents including documents such as :

(i) income tax returns of the Plaintiff trust for 8 years along with profit and loss account and balance sheet,

(ii) income tax returns of each trustees for last eight years in their individual capacity along with profit and loss account and balance sheet,

(iii) list of activity of Birla Health Care Ayurveda Pvt Ltd, which is a Massage Therapy Centre of Kerala and other charges for the treatment,

(iv) list and details of employees and doctors of Birla Health Care Ayurveda Pvt. Ltd.

4. Both the courts held that in this respect the plaintiffs have already given inspection of document which they have referred in their pleadings and also in the list of documents relied upon by them. This fact was not denied by the defendant in their rejoinder to the application exhibit-14.

5. It is not even the case of the defendant that the documents sought by them are referred by the plaintiff in their pleadings or their affidavit.

6. Mr. Gala, appearing for the petitioner submits that complete, fair and free inspection of all documents sought by the defendant should always be given to the defendant. He submitted that there is no justification in rejecting the application exhibit-14 by both the Courts. He submits that the impugned order is perverted.

7. I have gone through the contents of the impugned order. The suit is only on the ground of “*bona fide requirement*” and “*unauthorised additions and alterations*”. Admittedly the

plaintiff had already given inspection of documents which are relied upon by them in plaint.

8. Going through the list of documents of which discovery and inspection is sought by the defendant vis-a-vis i) Income Tax Return of the Plaintiffs' Trust for last eight years along with Profit and Loss Account and balance sheet. (j) Income Tax Returns of each Trustees for last eight years in their individual capacity along with Profit and Loss Account and Balance Sheet. (m) List of activities of Birla Health Care Ayurveda Pvt. Ltd. which is a Massage Therapy Centre of Kerala and their charges for the treatment. (n) List and details of employees and Doctors of Birla Health Care Ayurveda Pvt. Ltd.

9. It appears to me this is nothing but a delaying tactics, which has been adopted by the petitioner/original defendant in order to see that the eviction suit is not taken up for hearing.

10. Therefore, there is reason from me to interfere with the findings recorded by both the courts. Writ Petition is dismissed.

11. There is a need that a strong message is sent to this kind of defendants, who intend to delay the court proceedings. A

considerable time is consumed of this Court by the
Petitioner/Original Defendant.

12. The writ petition is dismissed with cost of
Rs.1,00,000/- to be paid by the Petitioner to the respondent no.1
within a period of two weeks from today.

13. The hearing of the R.A.E. Suit No.688 of 2021 is
expedited.

(RAJESH S. PATIL, J.)