

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 114 OF 2024

ALONGWITH

WRIT PETITION NO. 14994 OF 2023

Quest Retail Private Limited

..... Petitioner

VERSUS

Elpro International Limited

..... Respondent

Mr.Rameshwar Totala i/b. Mr.Ashwin Poojari for the Petitioner in both Writ Petitions.

Mr.Pralhad Paranjape a/w. Mr.Rupesh Geete i/b. Satyaki Law Associates for the Respondent.

CORAM: RAJESH S. PATIL, J.

DATE : 1 FEBRUARY, 2024

P.C. :-

Matter is on board and is mentioned out of turn.

2. This writ petition challenges the impugned order dated 13 December, 2023 passed by the Additional Judge, Small Causes Court and Civil Judge, Senior Division, Pune on order below Ex.51.

3. The said application Ex.51 was seeking a relief for

appointment of Court Commissioner with the direction to make inventories of goods, materials, equipments, furnitures and fixtures. The petitioner herein was a licensee of Unit No. GF-22 (Shop – 23), situated on the Ground Floor, Elpro City Square Mall, situated on Plot No. I, bearing CTS No. 4270/1, Mouje Chinchwad, Pune.

4. This Court by its order dated 12 January, 2024 appointed two advocates for the purpose of taking inventory of the goods lying in the suit premises. By a further order dated 19 January, 2024, name of one of the lawyer was replaced.

5. For the ease of reference, order dated 12 January, 2024 is reproduced hereinbelow :-

1. After the matter was argued for some time, this Court is of the view that there would be inventory of the goods belonging to the Petitioner and lying in the custody of the Respondent, at their mall in Chinchwad, Pune.

2. At the time of inventory, one officer from both the side should remain present. The inventory to be conducted by two advocates as

suggested by both the arguing counsel i.e. Advocate **Ms.Aarti Balu Gharat** and Advocate Siddharth Thakoor, within three working days. Both the lawyers and the officers of both the parties to remain present at the time of taking inventory. Inventory Report should be submitted before 19 January 2024.

3. The matter to come up on board on 19 January 2024.

4. Mr.Paranjape, counsel appearing for the licensor submits that before the order dated 14 December 2023 was passed, on 4 November 2023, his client i.e. Respondent had already created third party right in respect of the suit premises in favour of **M/s.Title** Company Limited.

6. Both the learned counsel informs this Court that as per the directions given by this Court on 12 January, 2024 and on 19 January, 2024, inventory was conducted on 29 January, 2024. Learned advocate for the petitioner and learned advocate for the respondent has separately filed an inventory report. The said inventory reports are taken on record and marked 'X' and 'Y' respectively for identification.

7. As the inventory is already been conducted, according to

me suffice will be the purpose if without prejudice to the rights and contentions of both the parties, the petitioner who is admittedly the owner of the inventory goods, be allowed to take away the said goods on as is where is basis.

8. The petitioner is permitted to visit the said Mall and take away the goods which are forming part of the inventory report on Saturday, 3 February, 2024 at 10.30 a.m. in the morning. The respondent's representative is permitted to remain present when the said goods are taken away by the petitioner.

9. Needless to say that the respondent will fully co-operate with the petitioner when such goods are removed by the petitioner.

10. In view of the same, Writ Petition No. 114 of 2024 is disposed of.

11. As this matter is not disposed of on merits, all contentions

of both the parties are kept open.

12. Both the advocates who had carried out the inventory, are permitted to remain present at the time when the petitioner is taking away his goods, and they should also conduct a Panchnama. A copy of that Panchnama should be handed over to both the parties and so also the original Panchnama to be filed in Civil Suit No. 221 of 2023 pending before the Small Causes Court and Civil Judge, Senior Division, Pune.

13. The parties to act on the authenticated copy of this order.

14. Writ Petition No. 14994 of 2023 to be placed on board for admission on **21 February, 2024**.

[RAJESH S. PATIL, J.]