

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

WRIT PETITION NO.3384 OF 2024

Roopa Gunakar Shetty & Anr.

....Petitioners

V/S

M/s. Colo Colour Pvt. Ltd. & Ors.

....Respondents

Mr. Kishor Patil i/b Ms. Rukmini Khairnar *for the Petitioners.*
Mr. G.H. Keluskar *for Respondent No.1.*

CORAM: SANDEEP V. MARNE, J.
DATE : 09 DECEMBER 2024.

P.C.:

1. The Petition challenges order dated 7 February 2024 passed by the Appellate Bench of Small Causes Court rejecting Revision Application No.252 of 2023 and confirming the order dated 3 July 2023 passed by Small Causes Court allowing the Application for amendment of Plaint at Exhibit-30.

2. I have heard Mr. Patil, the learned counsel appearing for the Petitioners and Mr. Keluskar, the learned counsel appearing for the Respondent No.1/Plaintiff.

3. After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that the Plaintiff now wants to add the ground of non-user under provisions of section 16(1)(n) of the Maharashtra Rent Control Act, 1999 (**MRC Act**) in the amended plaint. Plaintiff is contending that

for a period six months prior to institution of the suit, the suit premises were not used by the Defendants/Tenants for the purpose for which they were let out without any reasonable cause. However the said ground was inadvertently not incorporated in the plaint. This is a RAE Suit filed by the Plaintiff seeking eviction of the Defendants-Tenants. Therefore any delay in decision of the suit actually enures to the benefit of the Defendants-Tenants. The Court has merely permitted incorporation of ground relating to non-user and the Defendants-Tenants in the suit would be at liberty to deal with the said ground by filing additional Written Statement as well as by leading evidence of use of the premises. Therefore it cannot be stated that there is a change in the nature of the suit which continues to the same i.e. for eviction of Defendants/Tenants on grounds enumerated in section 16 of the MRC Act. Mere addition of a ground for eviction does not change the nature of the suit. The amendment is in fact aimed at avoiding multiplicity of proceedings. I therefore do not find any valid ground to interfere in the impugned orders. Writ Petition is accordingly **rejected**.

4. The Defendants/Tenants would however be at liberty to file Additional Written Statement to the amended plaint within a period of four weeks from today.

(SANDEEP V. MARNE, J.)