

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.5112 OF 2024**

Satish Maruti Garale
V/s.

....Petitioner

Abrar Ahemed Mohmood Ansari

....Respondent

WITH

WRIT PETITION NO.5114 OF 2024

Santosh Maruti Garale
V/s.

....Petitioner

Abrar Ahemed Mohmood Ansari

....Respondent

Mr. V.B. Ghorpade *for the Petitioners.*

CORAM : SANDEEP V. MARNE, J.

Dated : 31 July 2024.

P.C. :

1) The challenge in these Petitions is to the orders dated 17 January 2024 passed by the Appellate Bench of the Small Causes Court, Mumbai, rejecting the Revision Application filed by Petitioners challenging the orders dated 30 October 2023 passed by the Small Causes Court. By that order the Small Causes Court has allowed application at Exhibit-21 filed by the Plaintiffs and have permitted Plaintiffs to inspect the suit premises through Court Commissioner on their own cost.

2) I have heard Mr. Ghorpade, the learned counsel appearing for the Petitioners and considered the submissions canvassed by him.

3) Perusal of the findings recorded by the Trial Court in paragraph 4 of its order would indicate that Petitioners /Defendants have paid rent to

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the Plaintiffs. Mr. Ghorpade has also not disputed this position. However, he would submit that such payment was made out of misunderstanding and when the Petitioners discovered that the real owner of the land is Wadia Trust and the real landlord would be Gulam Nabi and Usman Nabi, they have stopped paying rent to the Plaintiffs. He has submitted that Plaintiff must first obtain succession certificate from the Competent Authority or at least a document of transfer of tenancy from M/s. Wadia Trust for proving their claim of being landlord in respect of the premises.

4) In my view, once there is payment of rent by Defendants to Plaintiffs, *prima facie* the dispute of landlord's title sought to be created by Defendants cannot be taken into consideration while deciding the application for inspection of the suit premises. The Small Causes Court has rightly allowed the application for inspection of the suit premises and the Appellate Bench has correctly dismissed the revisions filed by Petitioners. No patent error is noticed in the orders passed by the Trial Court and its Appellate Bench. Writ Petitions being devoid of merits are **dismissed** without any orders as to costs.

[SANDEEP V. MARNE, J.]