

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

WRIT PETITION NO.9403 OF 2024

Bhawanishankar Kamalkant Joshi	Petitioner
V/S	
Laxmikant Murlidhar Sharma & Ors.	Respondents

**WITH
WRIT PETITION NO.9467 OF 2024**

Dilip Janardan Mishra	Petitioner
V/S	
Laxmikant Murlidhar Sharma & Ors.	Respondents

Mr. Rakeshkumar R. Tiwari *for the Petitioner/s.*

CORAM: SANDEEP V. MARNE, J.
DATE : 30 JULY 2024.

P.C.:

1 The challenge in the present Petitions is to the orders dated 6 January 2024 passed by Appellate Bench of the Small Causes Court at Mumbai in Appeal No.2 of 2023 and Appeal No.1 of 2023 confirming the orders dated 13 September 2022 passed by the Small Causes Court rejecting the applications for rejection of Plaint under Order 7 Rule 11 of the Code of Civil Procedure, 1908.

2 I have heard Mr. Tiwari, the learned counsel appearing for Petitioners. He would submit that the suit is not maintainable in view of absence of landlord-tenant relationship between the parties. He would further submit that suit is otherwise barred under provisions of sections 22 and 42 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

3 So far as first ground of alleged absence of relationship between landlord and tenant is concerned, this is the defence raised by the Defendants in the Written Statement. Such defence cannot be considered while deciding application for rejection of Plaint since only averments made in the Plaint are required to be taken into consideration.

4 So far as the second ground for seeking rejection of Plaint is concerned, the Small Causes Court has recorded a finding that before institution of suits, no notification was issued declaring the land, on which suit premises are located, to be the slum land. Therefore no case is made out to indicate bar of suit.

5 In that view of the matter no interference is warranted in the impugned orders passed by the Small Causes Court and Appellate Bench of Small Causes Court. Writ Petitions are accordingly **rejected**.

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(SANDEEP V. MARNE, J.)