

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10503 OF 2024

Sudhir Govind Bharati and anr.	.. Petitioner
Versus	
M/s.Narrondass Manordass	.. Respondent

ALONG WITH
WRIT PETITION NO. 10831 OF 2024

Ravindra Narayan Rajput	.. Petitioner
Versus	
The Sonawala Company Private Limited and anr.	.. Respondents

ALONG WITH
WRIT PETITION NO. 10909 OF 2024

Balkrishna Bhagoji Rahate	.. Petitioner
Versus	
M/s.Narrondass Manordass	.. Respondent

ALONG WITH
WRIT PETITION NO. 10825 OF 2024

Shankar Daulat Lakhan and anr.	.. Petitioners
Versus	
The Sonawala Company Private Limited	.. Respondent

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- Mr. Jamshed Master i/b Mr. Mangesh D. Chavan, for the Petitioners.
 - Mrs.Anu Ravi Khanna, for Respondents.
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CORAM : SANDEEP V. MARNE, J.

DATE : AUGUST 13, 2024

P. C.:

1. The challenge in these Petitions are to orders passed by the Appellate Bench of the Small Causes Court by which the Revisions filed by the Respondents/Plaintiffs have been allowed directing the Petitioners/Defendants to deposit interim compensation of Rs.7,000/- per month from the date of the applications under the provisions of Order XV-A of the Code of Civil Procedure, 1908.

2. I have heard Mr. Master, learned counsel appearing for the Petitioners and Ms. Khanna, learned counsel appearing for the Respondents/Plaintiffs.

3. After having considered the submissions canvassed by learned counsel appearing for the parties, it appears that the Applications filed by the Plaintiffs before the Small Causes Court contained twin prayers of injunction as well as payment of interim amount of compensation. The Trial Court initially granted only prayer for injunction and rejected the prayer for payment for interim compensation. In Appeal/Revisions filed by the Plaintiffs, the Appellate Bench has reversed part of the orders passed by the Trial Court and has held the Petitioners liable to deposit the amount of interim compensation @ Rs. 7,000/- per month from the dates of the Applications.

4. Mr. Master would rely upon the pay-slips of the original employees, of whom the Petitioners are the legal heirs, to indicate that some amount (Rs.5/-) was being deducted from their pay-slips towards the rent. He would further rely upon the order dated 22/07/2019 passed by the Appellate Bench of the Small Causes Court in the case of Mr. Sanjay Gopal Malvankar in which similar claim of the Defendant therein about deduction of rent from salary slip of his father was accepted by the Appellate Bench for the purpose of arriving at a prima facie conclusion that the jurisdiction of Small Causes Court was erroneously invoked under the provisions of the Section 41 of the Presidency Small Causes Court Act. He would submit that in the present case, though the said documents were placed for perusal of the Appellate Bench, the Appellate Bench has refused to take cognizance thereof.

5. On the contrary, learned counsel appearing for the Respondents/Plaintiffs would dispute the claim of production of the said documents before the Appellate Bench. She would submit that before the Appellate Bench, no documents were produced to show the claim of tenancy and accordingly, the Appellate Bench has proceeded to pass the impugned orders fixing the amount of interim compensation by holding the Petitioners to be gratuitous licensees. In my view, the Petitioners need to be granted an opportunity to produce the relevant documents for perusal of the Appellate Bench in support of their claim that their fathers were treated as tenants in respect of the suit premises. For that purpose, Revision Applications filed by the Respondents/Plaintiffs deserve to be remanded for fresh decision.

6. Accordingly, the orders passed by the Appellate Bench on 20/02/2024 and 03/04/2024 are set aside and Revision Applications are remanded to the Appellate Bench for fresh decision.

7. The Petitioners shall be at liberty to produce such documents as are considered necessary for prima facie establishing their claim of tenancy. The Appellate Bench shall consider the said documents and proceed to decide the Revision Applications afresh. The additional documents shall be filed by the Petitioners within 4 weeks from today.

8. All the points on merits are left open. The Writ Petitions are disposed of.

[SANDEEP V. MARNE, J.]