

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11466 OF 2024

Beaufort (P) Ltd.

....Petitioner
(orig. Defendant)

V/s.

Jehangir H.G. Jehangir and Anr.

....Respondents
(orig. Plaintiffs)

WITH

WRIT PETITION NO.11504 OF 2024

Beaufort (P) Ltd.

....Petitioner
(orig. Defendant)

V/s.

Jehangir H.G. Jehangir and Anr.

....Respondents
(orig. Plaintiffs)

Mr. Jaydeep Deo *for the Petitioners.*

Mr. Suraj Shah *for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

Dated : 28 August 2024.

P.C. :

1. These two Petitions are filed challenging common Judgment and Order dated 18 July 2024 passed by the Appellate Bench of the Small Causes Court, dismissing Revision Application Nos.140 of 2024 and 141 of 2024 and confirming the order dated 6 April 2024 passed by the learned Single Judge of the Small Causes Court rejecting application at Exhibit-93 seeking permission for re-examination of DW1 as well as confirming order dated 23 April 2024 passed by the learned Single Judge dismissing application at Exhibit 100 seeking filing of additional affidavit of evidence with costs.

2. I have heard Mr. Deo, the learned counsel appearing for the Petitioners/ Original Defendants and Mr. Shah, the learned counsel appearing for the Respondents/ original Plaintiffs.

3. After having considered the submissions canvassed by the learned counsel appearing for the parties and after going through the concurrent findings recorded by the Trial Court and the Appellate Bench, I do not find any valid reason to infer that any clarification with regard to statements made by DW1 in cross-examination is required. In fact, Mr. Shah, has taken me through all the four statements made by DW1 in cross-examination, in respect of which, he sought to tender clarification in re-examination and after going through the said four statements, I do not find that any clarification is required in respect of the said statements. To illustrate the sheer casualness in which the application for re-examination is filed, it would be appropriate to take up one of the statements made by DW1 in his cross examination, which reads thus:-

It is true to say I became Director of Defendant Company with effect from 05 February 2007.

4. It appears that plaint was amended and para 2E was inserted raising a specific averment that Mr. Pavan Anil Gandhi and Ms Pritiben Anil Gandhi were appointed as Directors of the Defendant Company and as per Form No.32, their appointments as Director were effected on 5 February 2007. Additional written statement was filed by Defendant, in which said contention in para 2E of the Plaint has not been denied. My attention is also drawn by Mr. Shah to Form No.32, which clearly shows appointment of Mr. Pavan Anil Gandhi and Ms Pritiben Anil Gandhi as Directors of the Company on 5 February 2007. It is therefore incomprehensible as to

what clarification is needed with regard to the above quoted statement made by DW1 in his cross-examination.

5. Similar is the case in respect of the other three statements as well. I therefore find that the application made by Defendant for re-examination of DW1 at Exhibit-93 was gross abuse of process of law and has rightly been rejected by the Trial Court. The Appellate Court has rightly dismissed the Revision filed by the Petitioners.

6. So far as application at Exhibit-100 is concerned, the same was filed for seeking an opportunity to adduce additional evidence. It appears that by way of additional evidence, Defendant wanted to bring on record factum of landlord addressing letter in the year 2005 to the tenants seeking contributions for carrying out repairs to the building. However, the Suit is instituted on 13 August 2001 *inter alia* on the ground of non-user and therefore non use of premises for continuous period of six months without reasonable cause immediately preceding the date of filing of the Suit will have to be established. Therefore, the event of landlord addressing letter to the tenants in the year 2005 is wholly irrelevant to the issue of non-user.

7. Second event sought to be included in the additional evidence is about alleged incident of fire of the year 2010. It appears that Suit was amended in the year 2018 and additional written statement was filed by Defendant in the year 2018. No explanation is forthcoming as to why Defendant did not plead incident of alleged fire of 2010 in the additional written statement. In my view therefore, the filing of application for adducing additional evidence at Exhibit-100 is nothing but delaying tactics on the part of the Defendant. The learned Trial Court has rightly rejected the application at Exhibit-100 by imposing costs of Rs.10,000/- on the

Petitioner. The Revision against the said order has rightly been rejected by the Appellate Bench.

8. After considering the overall conspectus of the case, I am of the view that the applications filed by Petitioner at Exhibit-93 and Exhibit-100 were gross abuse of process of law. Filing of such baseless applications required the learned Trial Court to invest substantial period of time in deciding the same and passing two orders running into 15 and 16 pages respectively. The matter did not end here and in its true litigative spirit, Petitioner was advised to carry the orders passed by the learned Single Judge of the Trial Court before the Appellate Bench, which again was required to consider the baseless revisions filed by Petitioner and deliver a common judgment running into 19 pages for rejecting both the Revision Applications. At least at this stage, Petitioner ought to have ended its litigative sojourn. However, valuable judicial time of this Court is wasted by the Petitioner by filing the present Petitions, which again is gross abuse of process of law. Filing of such baseless applications and challenging orders passed therein before higher courts results in wastage of valuable judicial time and other genuine litigations remain pending in the process.

9. In my view therefore, dismissal of the present Petitions cannot be without imposition of further costs. Both the Writ Petitions are accordingly **dismissed**. In addition to the costs already imposed by the learned Single Judge of the Small Causes Court, Petitioner shall pay to the Respondents further costs of Rs.50,000/-. The amount of costs be paid by the Petitioner to Respondents within a period of two weeks from today.

[SANDEEP V. MARNE, J.]