

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17280 OF 2024

Shri. Bhagwari Prasad alias Bhagwat
(Now deceased) through his son

1(a) Mr. Manoj Bhagwati Prasad Rajput

....*Petitioner*

: *Versus* :

Mr. Gopal Harprasad Ruhela & Ors.

....*Respondents*

Mr. Pradeep J. Thorat a/w. Ms. Sumandevi Yadav i/by. Mr. Manojkumar Upadhyay, for the Petitioner.

Ms. Shweta Sharma, for Respondent Nos.1 to 3.

CORAM : SANDEEP V. MARNE, J.

Dated : 16 DECEMBER 2024.

P.C. :

1) The petition challenges the order dated 18 October 2024 passed by the Appellate Bench of the Small Causes Court dismissing Revision Application No.102/2024 filed by the Petitioners and confirming the order dated 10 July 2024 passed by the Small Causes Court in MANARJI Application No.4/2024.

2) I have heard Mr.Thorat, the learned counsel appearing for the Petitioners and Ms. Sharma, the learned counsel appearing for Respondent Nos.1 to 3.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties and after perusal of the plaint in all the three eviction suits, it appears that the Plaintiffs raised prayers seeking eviction of the Defendants in each suit by describing the suit properties in prayer clause (a) in each suit. Ordinarily, therefore the Small Causes Court, while decreeing the suit, ought to have decreed the suits in respect of properties described in prayer clause (a) in each plaint. It appears that the Small Causes Court referred to the property described in para-1 of the plaint which apparently did not cover structures on the open land. As against this, the properties described in prayer clauses (a) of each plaint, covers not just the land but also constructed structures thereon.

4) It is an admitted position that the eviction decrees passed by the Small Causes Court have been confirmed by the Appellate Court, this Court and by the Apex Court. With a view to ensure that there is no difficulty in execution of the decrees, the Small Causes Court has entertained the application filed by the Plaintiffs and has corrected the judgment and decree dated 9 September 2014 by deleting the words '*as described in para-1 of the plaint*' by substituting the same as '*prayer clause (a) of the plaint*'. In my view, the order passed by the Small Causes Court apart from being necessary in the facts and circumstances of the present case, would infact aid the Plaintiff in effective execution of the decree. Merely because the Defendants were not granted an opportunity while correcting an obvious error in the decree passed by the Small Causes Court,

interference by this Court in the orders passed by the Small Causes Court and its Appellate Bench is not warranted. What is corrected by the Small Causes Court is an obvious error in the decree. I therefore do not find any valid reason to interfere in the orders passed by the Small Causes Court and its Appellate Bench. The Writ Petition is devoid of merits. It is **dismissed** without any order as to costs.

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[SANDEEP V. MARNE, J.]