

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13632 OF 2024

Arvind Bhandarkar	...Petitioner
<i>Versus</i>	
Amit Padmakar Bole	...Respondent

Mr. Chaitanya Bhandarkar, for the Petitioner.
Mr. Smit Shah (through Video Conference), for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED : 15th APRIL 2025

P. C.:

1. At the outset, Mr. Smit Shah, learned Counsel states that he has instructions to appear on behalf of the Respondent and he further states that within a period of one week, Vakalatnama on behalf of the Respondent will be filed in this Court. The said statement is accepted.

2. Heard Mr. Chaitanya Bhandarkar, learned Counsel appearing for the Petitioner and Mr. Smit Shah, learned Counsel appearing for the Respondent.

3. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the order dated 14th June 2023 passed by the learned Judge, Small Causes Court, Mumbai below Exhibit-20 in R.A.E. Suit No.1055 of 2017. By the impugned order, the amendment application bearing Exhibit-20 filed by the Plaintiff i.e. the present Respondent has been allowed. By the said amendment application, the Respondent proposes to amend the plaint by impleading the present Petitioner as party to the suit. The original suit has been filed by the Respondent bearing R.A.E. Suit No.1055 of 2017 against one V.G. Keni. The suit has been filed only on the ground of non-user. By the proposed amendment, the present Petitioner is proposing to add the Petitioner as the Defendant No.2, proposing to change description of the Defendant as Defendant No.1 and the following amendment is proposed in paragraph 4(a):

“4(a). The Plaintiff states that the Defendant No.1 was not entitled to transfer and/or part with the possession of the suit premises or create any third party interest in respect of the suit premises or any part thereof in favour of third party by any means and modes without obtaining the written consent or permission of the Plaintiff. The Plaintiff states that the Defendants No.1 has unlawfully sublet,

transferred and/or parted with the possession of the suit premises or any part thereof or created a third party interest in any other manner in the suit premises or any part thereof in favour of the Defendants No.2, without obtaining written permission of the Plaintiff. The Plaintiff, therefore, states and submits that the Defendant No.1 has lost the protection of the Maharashtra Rent Control Act, 1999. Therefore, the Defendants are liable to be evicted under the provisions of Section 16(1)(e) of the Maharashtra Rent Control Act, 1999.”

4. In the proposed amendment, it is stated that the original Defendant, now renumbered as Defendant No.1, has unlawfully sublet/transferred and/or parted with the possession of the suit premises or any part thereof or created a third party interest in any other manner in the suit premises or any part thereof in favour of the Defendants No.2 i.e. the present Petitioner without obtaining written permission of the Plaintiff.

5. Although both the learned Counsel have raised several contentions, however, after arguing the matter for some time, both the learned Counsel state that by consent, this Writ Petition can be disposed of. Accordingly, by consent of the parties, the following order is passed:

ORDER

- (a) Order dated 14th June 2023 passed by the learned Judge, Small Causes Court, Mumbai below Exhibit-20 in R.A.E. Suit No.1055 of 2017 is maintained with modification that as far as the Petitioner i.e. Defendant No.2 is concerned, the date of institution of the said suit will be deemed to be from the date of the application of the amendment i.e. date of filing of Exhibit-20 application in R.A.E. Suit No.1055 of 2017.
- (b) Amendment as permitted be carried out within a period of four weeks from today, if the same is not carried out earlier.
- (c) The Respondent/Plaintiff shall serve copy of the amended plaint on the Petitioner i.e. newly added Defendant No.2 within a period of eight weeks from today.
- (d) The Petitioner i.e. Defendant No.2 is at liberty to file written statement within a period of eight weeks from the service of the amended plaint.

(e) It is clarified that all contentions of both the parties on merits which are to be tried in suit are expressly kept open.

6. Accordingly, the Writ Petition is disposed of in above terms by consent of the parties, with no order as to costs.

[MADHAV J. JAMDAR, J.]