

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18525 OF 2024

Sharad Dinkar Damle

...Petitioner

Versus

Vinayak Yashwant Gadre (since Deceased)
through LRs.

...Respondents

Mr. Hrishikesh Sopan Shinde, Advocate for Petitioner.
Mr. Sanjay Kshirsagar, Advocate for Respondents.

CORAM: MADHAV J. JAMDAR, J.
DATED : 3rd FEBRUARY 2025

P.C.:

1. Heard Mr. Shinde, learned Counsel appearing for the Petitioner and Mr. Sanjay Kshirsagar, learned Counsel appearing for the Respondents.

2. The challenge in this Writ Petition is to the Order dated 19th September 2024 passed by the learned 5th Additional Judge, Small Causes Court and Joint Civil Judge, S.D., Pune below Exhibit 63 in Civil Suit No. 89 of 2020.

3. The said Application bearing Exhibit 63 has been filed by the Respondent i.e. the Plaintiff seeking amendment in the plaint. It is

stated in the Application that the Respondent-landlord came to know that the Defendants are in possession of several properties and details have been given in the amendment application. By the impugned Order, amendment application has been allowed.

4. It is the main contention of Mr. Shinde, learned Counsel that the amendment application has been filed after commencement of trial and therefore the impugned Order is required to be quashed and set aside.

5. However, it is required to be noted that the Suit has been filed for bonafide requirement under the provisions of Maharashtra Rent Control Act. In fact, it is the duty of the Petitioner-tenant to disclose to the Court the properties, which are available for the tenant and which are in possession of the Petitioner-tenant for deciding the aspect of hardship. The Respondent-landlord in the application stated that immediately after getting information regarding the properties, which are in possession of the tenant, the application has been filed.

6. The learned Trial Court, while allowing the application at Exhibit 63 has specifically stated that it cannot be said that the Plaintiffs have filed the application without due diligence. Nothing is pointed out to show that the said observation of the learned Trial Court is contrary to the material on record. Therefore, no interference in the impugned Order is warranted.

7. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

BHALCHANDRA
GOPAL
DUSANE

(MADHAV J. JAMDAR, J.)

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