

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5980 OF 2025

Uma Arun Kejriwal ...Petitioner

Versus

M/s. Johrimal Deviprasad and ors. ...Respondents

Mr. Akash Menon, a/w Anjana Vijay, for the Petitioner.

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CORAM: N. J. JAMADAR, J.

DATED: 10th JUNE, 2025

Oral Order:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 13th December, 2024, passed by the Appeal Bench of the Court of Small Causes in Revision Application No.175/2024, whereby the revision preferred by the petitioners against an order dated 5th April, 2024 passed by the learned Judge, Court of Small Causes in RAE Suit No.267/426 of 2012 permitting defendant No.1 to carry out amendment in the written statement, came to be dismissed.
3. By the said order dated 5th April, 2024, the learned Judge, Court of Small Causes, had permitted the defendant to carry out the amendment in the written statement on the

premise that there were subsequent developments in the nature of the release of the interest of defendant No.1 in favour of Parmanand Kejriwal (HUF), who claimed to be the landlord and co-owner of the demised premises.

4. The learned Counsel for the petitioner invited the attention of the Court to an order dated 18th November, 2013 passed by the Court of Small Causes on an application for grant of temporary injunction (Exhibit-30), whereby the defendants were temporarily restrained from subletting, transferring, alienating or parting with possession of the suit premises without due process of law till the decision of the said suit.

5. The learned Counsel for the petitioner submitted that, in flagrant violation of the said order of injunction, defendant No.1 has released his tenancy rights in the demised premises in favour of Parmanand Kejriwal (HUF). Since the transfer of interest, by way of release, has taken place during the pendency of the suit in teeth of the injunction order, the Court could not have allowed the application for amendment in the written statement, though the matter pertains to subsequent events.

6. The consequences that ensue such transfer in the face of a restraint order is a matter of law. The fact that the trial court and the Appellant Court were persuaded to allow the amendment does not imply that the courts have given their imprimatur to the release of the tenancy rights by defendant No.1 in favour of the releasee. The effect and consequences of the said release, and the legality and validity thereof would be the matters for adjudication by the Court of Small Causes. The amendment, therefore, could not have been declined, on the ground that the facts sought to be brought on record by way of amendment were in purported breach of the order passed by the Court on 18th November, 2023. Resultantly, in exercise of writ jurisdiction, this Court does not find any justifiable reason to interfere with the impugned order.

7. The learned Counsel for the petitioner further submitted that despite an order dated 19th January, 2013 expediting the trial in the suit, there has not been significant progress in the trial as the cross-examination of plaintiff's first witness is still underway. The learned Counsel, therefore, prayed for a direction for expedite hearing of the RAE Suit No.267/426 of 2012.

8. Since the trial court has already passed order of expedite hearing, it may be expedient to request the trial court to hear and decide RAE Suit No.267/426 of 2012 as expeditiously as possible.

9. The parties shall co-operate with the trial court and shall not seek unnecessary adjournments.

10. It is clarified that the issue of legality and validity of the release of the tenancy rights by defendant No.1 in favour of releasee is kept open for adjudication at the trial.

11. Subject to the aforesaid clarification, the petition stands dismissed.

[N. J. JAMADAR, J.]