

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 8451 OF 2025

Bhartiya Departmental Stores and      ...      Petitioners  
Ors.

V/s.

Dilip Narayandas Parmar      ...      Respondent

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Mr. Nitin P. Deshpande, for the petitioners.

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CORAM : N.J. JAMADAR, J.

DATE : 8<sup>th</sup> JULY 2025

**PC:**

1. Heard learned counsel for the petitioners.
2. The challenge in this petition is to an order dated 18<sup>th</sup> February 2025, whereby the learned Judge, Court of Small Causes at Pune was persuaded to allow the application preferred by the respondent/plaintiff for appointment of Court Commissioner to have local inspection of the suit premises.
3. Respondent has instituted the suit for eviction on various statutory grounds, including breach of condition of tenancy by carrying out alteration in the demised premises which are of a permanent nature. The respondent filed an application seeking appointment of the

Court Commissioner to inspect the demised premises to bring on record the exact situation at the suit premises.

4. The learned Judge was of the view that the report to be submitted by the Court Commissioner would assist the Court in arriving at a just decision of the case.

5. Mr. Deshpande, learned counsel for the petitioner, submitted that the respondent /plaintiff has already placed the material on record, including the report of the structural consultant in whose presence the landlord had carried out the inspection of the suit premises. Attention of the Court was invited to the averments in Para No. 8 of the plaint, wherein the plaintiff had referred to the inspection of the suit premises along with a structural consultant in the month of September 2019. Plaintiff can, thus, prove those documents and the report of the structural consultant in evidence. Therefore, the appointment of the Court Commissioner is not necessary, as it would amount to collection of evidence, submitted Mr. Deshpande.

6. I find it difficult to accede to the submission of Mr. Deshpande. In case of breach of condition of tenancy by carrying out permanent alteration in the demised premises, without the permission of the landlord, a number of factors deserve to be taken into account. The nature of construction, the decree of annexation, the severability of the addition and alteration, and the intent of the alteration are required to be taken into consideration in determining whether the alteration is of permanent nature.

7. From this standpoint, the visit to the spot and report as regards

nature of the alleged alteration in the suit premises would elucidate the matter in controversy and assist the Court in arriving at a just decision of the case.

8. In this view of the matter, this Court does not find any infirmity in the order passed by the learned Trial Judge.

9. The petition stands dismissed.

(N.J. JAMADAR, J)