

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16860 OF 2025

Basant Chandriprasad Misra and Ors.	...Petitioners
<i>Versus</i>	
Jamshed Kali Mody and Ors.	...Respondents

Mr. P. Rajan i/b. Halai and Co, for the Petitioners
Mr. Gaurav Srivastava a/w. Ms. Aayushi Gohil, Mr. Umair Merchant
and Mr. Kanak Purohit i/b. Miskita and Co., for the Respondents

CORAM: MADHAV J. JAMDAR, J.
DATED : 17th DECEMBER 2025

PC:-

1. Heard, Mr. Rajan, learned Counsel for the Petitioners and Mr. Srivastava, learned Counsel for the Respondents.
2. By the present Writ Petition filed under Article 227 of Constitution of India, the challenge is to the legality and validity of order dated 17th September 2025 passed by the learned Appellate Bench of Small Causes Court, Mumbai in Miscellaneous Appeal No. 36 of 2025.
3. By the impugned order dated 17th September 2025 the learned Appellate Court has allowed the said Miscellaneous Appeal and set aside order dated 31st August 2024 passed by the learned

Judge of the Small Causes Court, Mumbai below Exhibit 67 in R.A.E. Suit No. 771/1214 of 2013.

4. By the order dated 31st August, 2024, the learned Judge of the Small Causes Court, Mumbai allowed application bearing Exhibit 67 in R.A.E. Suit No. 771/1214 of 2013 filed by the Defendant Nos. 2 to 5 seeking rejection of the plaint. Consequently, the plaint has been rejected by exercising power under Order VII, Rule 11 of the Code of Civil Procedure, 1908 (“CPC”).

5. The learned Appellate Court has set aside the said order dated 31st August 2024.

6. Perusal of the record shows that the said RAE Suit No.771/1214 of 2013 has been filed by the Plaintiffs i.e. present Respondent Nos.1 to 4 by taking contention that the Defendant No.1 is a Tenant and Defendant Nos. 2 to 5 i.e. present Petitioners are illegal occupants.

7. The learned Trial Court has rejected the plaint on the ground that there is no relationship of landlord and tenant between the Respondent Nos. 1 and 4 i.e. Plaintiffs and present Petitioners i.e. Defendant nos. 2 to 5.

8. However, perusal of the Plaint clearly shows that the Plaintiffs have come with a specific case that Defendant No.1 is their

tenant and the Defendant No.1 has illegally sub-letted the suit premises in favour of Defendant Nos. 2 to 5 and in that context it is the case of the Plaintiffs that he is seeking decree of eviction against Defendant No.1 as tenant and against Defendant Nos. 2 to 5 as the unlawful occupants.

9. Thus, the learned Trial Court has committed a grave mistake overlooking that the suit is between the landlord and tenant and as the Defendant No.1 has unlawfully sub-letted to Defendant Nos. 2 to 5 they are described as unlawful occupants. Even if contentions of the Plaint are seen as it is then it is very clear that the Plaint proceeds on the footing that the Plaintiffs are the landlords and Defendant No. 1 is the Tenant. Thus in any case the Plaint is between the Plaintiffs i.e. Landlords and the Defendant No.1 as tenant.

10. Thus, in the facts and circumstances, no interference in the impugned order is warranted.

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

[MADHAV J. JAMDAR, J.]