

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 17559 OF 2025**

Sudhakar Pundalik Shetye

...Petitioner**V/s.**

Arvind Pandurang Nagvekar Since Decd.
Thr. Lrs Mr. Suhas Pandurang Nagvekar and
Ors.

...Respondents

Mr. Sujeet Kurup *for the Petitioner.***Mr. Pradeep Thorat** *i/b Ms. Aditi S. Naikare for Respondents.*

CORAM: SANDEEP V. MARNE, J.**DATED: 16 MARCH 2026.****P.C.:**

1) By this Petition, Petitioner Challenges order dated 25 August 2025 passed by Appellate bench of the Small Causes Court allowing Revision Application No. 307 of 2024 and setting aside order dated 18 November 2024 passed by the Trial Court on Application at Exh-184.

2) I have heard Mr. Kurup, the learned counsel appearing for the Petitioner and Mr. Thorat, the learned counsel appearing for the Respondent/Original Plaintiff.

3) Plaintiff's suit has been decreed *inter-alia* on the ground of *bonafide* requirement. The Defendant filed Appeal No. 102 of 2011 against the eviction decree questioning the correctness of findings of

bonafide requirement essentially on the ground that the Plaintiff had acquired possession of additional premises during pendency of the suit and that the *bonafide* requirement as pleaded in the plaint had eclipsed on account of occurrence of subsequent events. During pendency of the Appeal Defendant also sought to level certain allegations of forgery against the Plaintiff by filing Application at Exh-105 before the Appellate Court. The Defendant prayed for taking action under Section 340 read with Section 195 of the Code of Criminal Procedure, 1973(**Code**). By order dated 9 October 2021, the two Applications at Exh-26 and Exh-105 were 'filed' by the Appellate Court meaning thereby that the Appellate Court refused to pass any order under Section 340 or 195 of the Code against the Plaintiff. The Defendant partly succeeded in the Appeal and secured an order of remand on 22 February 2022 on the issue of eclipse of *bonafide* requirement on account of occurrence of subsequent event. The Appeal is kept pending and the Appellate Court has directed the Trial Court to record additional evidence on the issue of eclipsing of *bonafide* requirement due to subsequent events by granting liberty to the Defendant to adduce additional evidence and to file additional pleadings. Taking benefit of the remand order dated 22 February 2022 which permitted Defendant to file additional pleadings, Defendants sought to reintroduce in the additional written statement the allegation of forgery which they attempted to raise before the Appellate Court by filing Exh-26 and Exh-105 which were 'filed' by the Appellate Court. Plaintiff filed Application at Exh-159 for striking out those pleadings on the ground that the same traveled beyond the liberty granted by the Appellate bench on 22 February 2022. The Plaintiff's Application is however rejected by

order dated 14 July 2023. The Plaintiff sought review of the said order by filing Application at Exh-184, which was allowed and the order dated 14 July 2023 was reviewed. Later, noticing the conflicting orders, this Court directed fresh decision of Application at Exh-184 by order dated 16 October 2024. After this Court directed re-decision of Application at Exh-184, the Trial Court rejected the same by order dated 18 November 2024. Plaintiff was required to file Revision Application No. 307 of 2024, which is allowed by impugned order dated 25 August 2025. Operative portion of order 25 August 2025 read thus.

1. Revision Application is allowed.
2. Impugned order dated 18.11.2024 passed by the Learned Trial Court below Exh-184 is quashed and set aside and in place of it, following order is passed.
3. Application Ex-184 is allowed as follows-
 - (i) Order passed below Ex-159 dated 14.07.2023 is hereby modified as follows-

Application below Ex-159 is partly allowed to the extent of averments made in applications vide Ex-15, 19, 25, 88, 98A, 102, 109 and 114 only in respect of eclipse of reasonable and bonafide requirement of the respondents and the averments pertaining to Ex-26 and Ex-105 (pertaining to alleged forgery of the documents) containing in additional written statement at Ex-66 are hereby struck down.
4. Inform the Learned Trial Court accordingly.

4) I do not find any error on the part of the Appellate Bench in setting aside order dated 18 November 2024 passed by the Trial Court on Application at Exh-184. The Application at Exh-184 was rightly filed by the Plaintiff for striking of the pleadings which travelled beyond the liberty granted by the Appellate Bench by order dated 22 February 2022. The limited remit of inquiry before the Trial Court in pursuance of

remand order dated 22 February 2022 is about eclipsing of *bonafide* requirement of Plaintiff-landlord on account of securing possession of additional premises during pendency of the suit. The issue of alleged forgery is absolutely irrelevant in the remanded inquiry directed by the Appellate Court. The Trial Court was required to act within the bounds of the liberty granted by the Appellate Court. It was supposed to permit pleadings and evidence only in respect of the issue of eclipsing landlord's *bonafide* requirement.

5) It is tragic that the remanded proceedings have remained pending before the Trial Court for over four years even though the Appellate Court had granted time of only three months to the Trial Court to record evidence on the remanded issue. Because of unnecessary controversy created by the Petitioner/Defendant over the allegations of forgery, the remanded inquiry is still pending before the Trial Court.

6) Considering the above position, I do not find any reason to interfere in the impugned order. The Trial Court shall forthwith proceed to complete the inquiry envisaged in the order dated 22 February 2022 and report the findings to the Appellate Court as expeditiously as possible, within the outer limit of four months. The Trial Court is requested that not to make any request to this Court for extension of the said time limit. Both sides shall cooperate with the Trial Court for completion of recording of evidence within the stipulated time.

[SANDEEP V. MARNE, J.]