

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.10219 OF 2017

Suresh Eknath Bansode & Anr.]	Petitioners
Vs.		
Ajay Dinesh Shrivastava & Ors.]	Respondents

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Mr. P.S. Dani, Sr. Advocate a/w Mr. Induprakash Tripathi i/b C.K. Tripathi, for
Petitioners.
Mr. K.H. Giri, for Respondents No.1 and 2.

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CORAM : R.G. KETKAR, J.

DATE : 28TH MARCH, 2018.

P.C.

Heard Mr. Dani, learned Senior Counsel for the Petitioners and
Mr. Giri, learned Counsel for respondents No.1 and 2.

2. On the oral application of Mr. Dani, leave to delete respondents
No.3 and 4 is granted. Amendment shall be carried out forthwith.

3. By this Petition under Article 227 of the Constitution of India, the
petitioner has challenged the judgment and order dated 29th July, 2017 passed
by the Additional Commissioner, Kokan Division, Mumbai (for short
"Commissioner") in Revision Application No.351 of 2017. By that order, the
Commissioner allowed the Revision Application and set aside the order dated
14th March, 2017 passed by the Competent Authority (Rent Act), Kokan
Division Mumbai (for short 'Competent Authority) in Case No.2 of 2016 and
remitted the matter to the Competent Authority.

3. Rule. Mr. Giri waives service on behalf of respondents No.1 and 2. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made returnable forthwith and Petition is taken up for final hearing.

4. Mr. Dani states that it is not necessary to give reasons in this judgment as upon taking instructions, he is agreeable for setting aside;

[1] Order dated 14th March, 2017 passed by the Competent Authority rejecting application made by respondents No.1 and 2 for leave to defend in Case No.2 of 2016.

[2] Order dated 14th March, 2017 passed in Case No.2 of 2016 by the Competent Authority.

[3] Order dated 29th July, 2017 passed by the Commissioner in Revision Application No.351 of 2017.

He further submits that application for leave to defend Case No.2 of 2016 filed by respondents No.1 and 2 may be granted and the Competent Authority may be directed to proceed with the case from the stage of Section 43(4) (c) onwards.

5. In view thereof, by consent of the parties, Rule is made absolute in following terms:

[1] Order dated 14th March, 2017 passed by the Competent Authority rejecting application made by respondents No.1 and 2 for leave to defend in Case No.2 of 2016 is set aside.

[2] Application made by respondents No.1 and 2 for leave to defend stands granted.

[3] Order dated 14th March, 2017 passed by the Competent Authority in Case No.2 of 2016 filed u/s 24 of the Maharashtra Rent Control Act, 1999 is set aside.

- [4] Order dated 29th July, 2017 passed by the Commissioner in Revision Application No.351 of 2017 is set aside.
- [5] Case No.2 of 2016 filed by the petitioner stands restored before the Competent Authority.
- [6] Competent Authority will proceed with Case No.2 of 2016 from the stage of section 43 (4) (c) of the Act and dispose of the case within six months from today.
- [7] All contentions of the parties on merits are kept open.
- [8] Rule is made absolute in the aforesaid terms with no order as to costs.

[R.G. KETKAR, J.]