

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICITON
CIVIL APPEAL NO.5227 OF 2013
(ARISING OUT OF SLP (C) No.22811 of 2011)

MOHAMMAED RAFIQUE M.YUSUF ANSARI

Appellant(s)

VERSUS

MOHAMMAED SALEEM ABDUL SALAM AND ORS.

Respondent(s)

O R D E R

Leave granted.

In a suit filed against the defendant-appellant for eviction of what is described as Room No.5 (Akhtari Begum Abdul Salam Chawl No.46-PA), the trial court declined an application, filed by the alleged appellant, for permission to file a written statement to the plaint. The trial court was of the view that the defendant-appellant, before us, was remiss in discharging his duty of filing a written statement within the time stipulated under the provisions of Order VIII Rule 1 of the Code of Civil Procedure and that the reason advanced by him for not doing so was not acceptable. Aggrieved the appellant filed Writ Petition No.5899 of 2010 in the High Court of Judicature at Bombay which has been dismissed by the High Court in terms of its order dated 29th June, 2011. The present appeal assails the correctness of that order.

The plaintiffs-respondents have not appeared in response to notices that were served upon them by the ordinary process as also dasti. This implies that the plaintiffs-respondents are not keen to contest the prayer of filing of a written statement. Even otherwise the defendant-appellant has in our opinion made out a case for grant of one more opportunity to file a written statement upon payment of costs.

We accordingly allow this appeal, set aside the orders passed by the courts below and grant one final opportunity to the defendant-appellant to file a written statement to the suit within a period of six weeks from today before the court concerned upon payment of costs of Rs.5000/- (Rupees five thousand), to be paid to the respondents-plaintiffs. In case the needful is not done within the time granted, as indicated above, the court below shall proceed to dispose of the suit in accordance with law without a written statement.

The appeal is accordingly disposed of leaving the parties to bear their own costs.

.....J.
(T.S. THAKUR)

.....J.
(JAGDISH SINGH KHEHAR)

NEW DELHI
DATED 8th July, 2013.
ITEM NO.37

COURT NO.8

SECTION IX

Petition(s) for Special Leave to Appeal (Civil) No(s).22811/2011

(From the judgement and order dated 29/06/2011 in WP No.5899/2010 of The HIGH COURT OF BOMBAY)

MOHAMMAED RAFIQUE M.YUSUF ANSARI Petitioner(s)

VERSUS

MOHAMMAED SALEEM ABDUL SALAM AND ORS Respondent(s)

(With prayer for interim relief and office report)

Date: 08/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s) Mr.Gaurav Agrawal,Adv.
Mr. Shankar Narayanan,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in view of the signed order.

(Mahabir Singh)		(Veena Khera)	
Court Master		Court Master	

Signed order is placed on the file