

**SUPREME COURT OF INDIA**

Transmarine Corporation

Vs.

Zensar Technologies Ltd.

C.A.Nos.....2009

(Tarun Chatterjee and R.M.Lodha JJ.)

01.09.2009

**ORDER**

**Tarun Chatterjee,J.**

1. Leave granted.

2. In a suit for eviction from an area of 3000 sq. ft. on the 4 th floor of a building known as "Dubash House" situated at Ballard Estate Mumbai, an application for amendment of the written statement was filed at the instance of the defendants/respondents. The respondents are contesting this suit by filing a written statement and also by filing an additional written statement. At the stage of recording evidence in the suit, the respondents filed an application for amendment of the written statement, which was rejected by the Court of Small Causes at Bombay on 13th of January, 1 2007. A second application for amendment of the written statement was again filed at the instance of the respondents on 12th of March, 2007, which too was rejected by the same Court by an order dated 28th of June, 2007. A revisional application, which was filed against the order dated 28th of June, 2007 rejecting the application for amendment for the second time, was also rejected by the Revisional Court on 14th of August, 2007.

3. Feeling aggrieved, the respondents filed a writ application before the High Court of Judicature at Bombay for setting aside the orders dated 13th of January, 2007 and 14th of August, 2007 rejecting the prayer for amendment of the written statement made at the instance of the respondents. The High Court by the impugned order dated 5th of September, 2007 disposed of the writ application by the following direction :- "Hence, the trial Court is directed to decide the issue which involves plaintiff's title in accordance with law and also on the basis of evidence other than the admission of the petitioners."

4. This order has been challenged by the landlord before us by way of a Special Leave Petition, which on grant of leave, has been heard in presence of the learned counsel for the parties.

5. Having considered the nature of the suit which is simply a suit for eviction and also repeated rejection of the application for amendment of the written statement by the courts below, the High Court although had not allowed the writ petition, but at the same time, directed the trial Court to decide the issue of title, which is not permissible in law in a suit for eviction simplicitor. In our view, in a suit for eviction, if it is not filed on the ground of bonafide requirement of the landlords and since the respondents have already admitted the relationship of landlord and tenant between the parties, there was no necessity for the High Court to direct that the issue regarding the title of the plaintiff in respect of the suit premises should be decided in accordance with law and also on the evidence other than the admission of the respondents. In view of the discussions made hereinabove, we are, therefore, unable to accept this part of the impugned order, particularly in view of the fact that in a suit for eviction in which relationship between the parties has been admitted, it would not be open for the tenant to deny the title of the landlords/appellants. In view of the above, we are, therefore, of the view that the courts below had rightly rejected the application for amendment of the written statement filed by the respondents and at the same time, the High Court was not justified in directing the trial Court to decide the issue which involves the title of the plaintiffs/appellants on the basis of evidence other than the admission of the respondents. Accordingly, this part of the order namely, "Hence, the trial Court is directed to decide the issue which involves plaintiff's title in accordance with law and also on the basis of evidence other than the admission of the petitioners", is hereby deleted from the impugned order of the High Court and the application for amendment of the written statement is also rejected.

6. The trial Court is directed to decide the suit, which is simply a suit for eviction, at an early date, preferably within six months from the date of communication of this order to it, without granting unnecessary adjournments to either of the parties. The appeals are thus allowed to the extent indicated above. There will be no order as to costs.