

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5199 OF 2015

Dena Bank.] ... Petitioner
Versus
Dr. Abdul Hamid Abdul Rahamatullah & Ors.] ... Respondents

Mr. Bhushan Walimbe for Petitioner.

CORAM :- M. S. SONAK, J.
DATE :- SEPTEMBER 07, 2015

P. C. :-

1. This petition challenges order dated 14/10/2014, by which the Small Causes Court has dismissed the Petitioner's application at Exh.18 seeking a stay on further proceedings in T. E. & R. Suit No.68/92 of 2009.

2. Mr. Walimbe, learned Counsel for Petitioner submitted that R.A.D. Suit No.1475/4967 of 1979, Hardev Singh Bedi was declared as a tenant in respect of the suit premises and the Petitioner (Dena Bank) was declared as his sub-tenant. The decree dated 29/11/1999 was however reversed by the Appeal Court on 26/08/2008. The Revision Application No.591 of 2008 instituted by Hardev Singh Bedi is pending consideration. In such circumstances, it is only proper that the further proceedings in T. E. & R. Suit No.68/92 of 2009 instituted by the landlord on the basis that the Petitioner-Bank is his direct tenant, are required to be stayed.

3. Having the learned Counsel for parties and perused the record, in my judgment, there is no case made out to exercise extraordinary jurisdiction under Article 227 of the Constitution of India. Admittedly, the Appeal Court, by its Judgment and Decree dated 26/08/2008 in Appeal No.178 of 2000, has held that the Bank is the direct tenant in respect of the suit premises. The Petitioner-Bank never challenged the decree dated 26/08/2008. In the revision application instituted by Hardev Singh Bedi, there is no interim relief. As such, there is really no legal bar to further proceeding in T. E. & R. Suit No.68/92 of 2009. Accordingly, there is no jurisdictional error in making of the impugned order.

4. This petition is accordingly dismissed. If however Revision Application No.591 of 2008 is finally disposed of and the decision therein, in the opinion of the Petitioner-Bank, has any impact upon the issue in T. E. & R. Suit No.68/92 of 2009, then it shall be open to the Petitioner-Bank to place the said circumstance before the Small Causes Court and to seek appropriate order in that regard. It is however clarified that this Court has not gone into the merits of the matter and as such, all contentions of all parties in this regard are kept open for decision, if and when any occasion arises therefor.

5. This Writ Petition is accordingly dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Order.