

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVN. APPLICATION NO. 115 OF 2015

Narendra Ramniklal Mehta

... Applicant

v/s

New Globe Shipping Service P. Ltd. & anr.

... Respondents

Ms.Purnima Bhatia along with Neelam Vyas for the applicant.

Mr.Vishal Talsania i/by Motiwala & Co. for the Resp. No.2.

CORAM: NITIN M. JAMDAR, J.

DATED : 1ST APRIL, 2015

ORAL ORDER:

By this application, the applicant/original plaintiff challenges the judgment and order passed by the Small Causes Court, Mumbai, dated 30 November 2012 and the judgment and order passed by the Appellate Bench of the Small Causes Court, Mumbai, dated 11 November 2014.

2. The applicant had filed a suit bearing Suit No.172 of 2007 in the Small Causes Court, Mumbai. A prayer in the suit is as under:-

“(a) That, the defendants by themselves, their servants and agents or otherwise howsoever be restrained by a perpetual order and injunction of this Hon'ble Court from in any manner dispossessing the plaintiff physically or otherwise from the suit property viz., Plot

No.325, New Tank Bunder, Darukhana, Reay Road, Mumbai – 400 010, or from removing or taking in their custody the goods and articles lying therein, otherwise than by due process of law.”

3. The applicant filed an application for an interim injunction. The learned Small Causes Court Judge, by an order dated 30 November 2012 dismissed the suit and has not granted an injunction as prayed for. The appeal filed by the applicant being Appeal No.12 of 2013 has also been dismissed by an order dated 11 November 2014.

4. Learned counsel for the respondent No.2 submits that he has received instructions that the respondent No.2 proposes to take action as per due process by invoking provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971. He submits that, therefore, the apprehension of the applicant that the applicant will be dispossessed without following due process of law does not survive. The learned counsel submits that, he is making the statement not because the impugned orders are incorrect, but the respondents are keen to take steps to recover the possession of the property. In view of this statement, it is not necessary to examine the controversy any further.

5. The civil revision application is accordingly disposed of permitting the respondents to take action against the applicant by following due process and possession of the applicant should be protected till suitable orders are passed in the proceedings to be

undertaken.

6. All contentions of the parties on merits including the applicability of Public Premises Act of 1971, are kept open.

(NITIN M. JAMDAR, J.)