

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

***WRIT PETITION NO. 4071 OF 2015***

Baljitkaur Prithpalsingh Sayan ..Petitioner

Vs.

Jagannath Bala Patil (Since Deceased)  
Throguh L.Rs. And Ors. ..Respondents

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Ms. Priscilla S. Nadar, Advocate for Petitioner.

Mr. V.K. Gupta, Advocate for Respondents.

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***CORAM : N.M. JAMDAR, J.***

***DATED : 20 APRIL 2015***

***P.C.:***

Not on board. Taken on board by way of precepie.

2. By this petition, the petitioner challenges the order passed by the Appeal Bench of the Small Causes Court refusing to grant any interim relief in favour of the petitioner. The husband of the petitioner challenged the judgment and decree dated 28 October 1999 passed by the Small Causes Court, Mumbai and judgment and order dated 16 January 2014 passed by the Appeal Bench of the Small Causes Court by way of Civil Revision Application No. 351/2014. The Civil Revision Application was extensively heard and by an order dated 26 September 2014 was dismissed subject to

the petitioner therein i.e. husband of the present petitioner and/or his family members i.e. including the present petitioner giving an undertaking. The interim order was extended by a period of 12 weeks. Thereafter, after a period of 12 weeks, the decree was sought to be executed. An application taken out by the petitioner to dismiss the execution proceedings was rejected by the learned Small Causes Court Judge by order dated 20 February 2015. Revision Application No. 99/2015 was thereafter filed by the petitioner in which an Application for stay was preferred. The Appeal Bench of the Small Causes Court, after observing that the proceedings filed at the behest of the petitioner were abuse of process of law, dismissed the said application with cost of Rs.4,000/-. Thereafter, the present petition is filed. The learned Counsel for the petitioner submitted that the provisions of Maharashtra Slum Areas (Improvement, Clearance and Development) Act, 1971 are attracted and therefore decree cannot be executed. Both the Courts have rightly taken note of the fact that issue of applicability of the Act was raised in civil revision application filed by the husband of the petitioner before this Court dealt with and rejected. The learned Counsel for the petitioner has sought to urge that different section was under consideration. This is nothing but abuse of process of law. Having failed in the challenge set up by the tenant husband of the petitioner, the petitioner is taking the same ground just to obstruct and delay the execution proceedings by filing this writ petition.

3. Writ petition is rejected with cost of Rs.20,000/-. The learned Counsel for the petitioner seeks protection for period of four weeks. The request is refused.

*(N.M. JAMDAR, J.)*