

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

WRIT PETITION NO.6703 OF 2015

Punsur Govind Charan : Petitioner
versus
Jivraj Bachchubhai Mistry : Respondent.

Mr. N P Bhavsar for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 17th November 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 26/03/2015 passed by the Appellate Bench of the Small Causes Court, Mumbai by which order the application for grant of stay to the judgment and order dated 06/05/2014 passed by the Trial Court pending the Appeal came to be allowed in terms of the directions contained in the said order. One of the directions is that the Appellant i.e. the Respondent herein is to deposit the compensation at the rate of Rs.4,000/- per month since the date of decree till the final disposal of the Appeal and the Petitioner herein i.e. the Respondent in the Appeal is permitted to withdraw the amount of Rs.515/- per month which is equivalent to the monthly rent of the suit premises. The reason why the said order was required to be passed is mentioned in paragraph 6 of the impugned order which reason is to the effect that the if the stay is not granted, then the appeal filed by the Respondent would turned infructuous. The Appellate Bench of the Small Causes Court also referred to the judgment of the Apex

Court in *Atma Ram Properties (P) Ltd. v/s. Federal Motors (P) Ltd.* reported in *(2005) 1 SCC 705* as well as the judgment in *Marjorie Passanah and another v/s. Mumtaz Iqbal Shaikh* reported in *2009(1) Mh. L.J. 972.*

2 In my view, considering the area where the suit premises are located and having regard to the nature of the order passed which is to operate pending the Appeal, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]