

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11475 OF 2013

Deepak Shamji Negandhi	..	Petitioner
VS.		
Ashish Dinesh Parekh & Anr.	..	Respondents

Mr. Khan Javed Akhtar for Petitioner.
Ms Pooja Khandeparkar with Mr. M. Vora i/b. M/s. Navneet Vora & Associates for Respondents.

CORAM : M. S. SONAK, J.
DATE: 24 MARCH 2015

P.C. :-

1] This petition is directed against order dated 5 September 2012, which permits the petitioner to withdraw the amount of Rs.1,80,000/- which is deposited by the respondents on 30 July 2012 subject to execution of Indemnity Bond to the extent of Rs.90,000/-.

2] Ordinarily against such an order, the appropriate remedy would be an appeal from order. However, the impugned order is dated 5 September 2012 and this petition has been pending in this Court since the year 2013. In these circumstances, rather than relegate the petitioner to lodge any appeal from order, which would even otherwise lie before this Court, the present petition is entertained.

3] Though this present petition is being entertained, there is no reason to interfere with the impugned order. This is because the impugned order takes note of the circumstance that there is some issue with regard to the petitioner being a joint tenant in respect of the suit premises along with late Ms Jayaben Negandhi. The petitioner has been required to furnish Indemnity Bond, in respect of half of the amount i.e. Rs.90,000/-, in case any claim arises for and on behalf of any alleged legal heirs of late Jayaben Negandhi. There is neither any jurisdictional error in making of the impugned order nor is the same vitiated by perversity. Accordingly, there is no reason to interfere with the impugned order. This petition is accordingly dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

Chandka