

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9165 OF 2015**

Kishankumar S/o Bootaram Anand

..Petitioner

Vs.

Rajkumar s/o Bootaram Anand & Ors

..Respondents

Mr. S.S. Kanetkar for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 22nd SEPTEMBER, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 23-3-2015 passed by the Learned Judge of the Small Causes Court, Pune, by which order, the application Exhibit 74 filed by the Petitioner i.e. the Defendant No.1 came to be rejected. By the said application the Petitioner/Defendant No.1 was seeking a direction against the Plaintiff to direct him to deposit the rent collected of the 2nd floor of the building in question in the court till the decision of the Suit. The said application has been rejected on the ground that the same goes beyond the counter claim filed by the Defendant No.1 as also on the ground that there is no prima facie proof that the Defendant No.1 has attributed for construction of the 1st and 2nd floor.

2 In so far as the findings that the said relief claimed vide the said application Exhibit 74 is beyond the counter claim is concerned, it is required

to be noted that the counter claim is revolving around schedule II and IV of the suit properties, whereas the 2nd floor is part of schedule III of the Suit properties in respect of which no relief is sought in the counter claim. Hence the finding recorded by the Trial Court prima facie does not appear to be incorrect. In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed order