

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7440 OF 2014

Abdul Saleem @ Baba Bhai & Anr. .. Petitioners
VS.
Moula Bux Abdul Karim
(since deceased) through L.Rs. & Ors. .. Respondents

Mr. A. R. Wachasundar for Petitioners.

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

P.C. :-

1] The order impugned in this petition made on 2 July 2014, reads thus:

“ISSUE NOTICE TO OTHER SIDE. R/O. 6-8-2014.”

2] The aforesaid order was made by the Appellate Bench of the Small Causes Court on an application seeking stay on the execution of the impugned eviction decree.

3] There is absolutely no necessity to interfere with the aforesaid order. In the first place, the order was made on 2 July 2014 and the notice was made returnable on 6 August 2014. The learned counsel for the petitioners states that notice has already been served on the respondents. In such circumstances, the petitioners would have to

apply to the Appellate Bench to dispose of application for stay. Even now, it is for the Appellate Bench to dispose of the application for stay. For this purpose, there is no necessity of entertaining this petition.

4] Accordingly, this petition is dismissed. In fact, this is a fit case where costs ought to have been imposed upon the petitioners for filing such a frivolous petition. However, the learned counsel for the petitioners states that the petitioners are poor persons and the petition was filed on the basis of the legal advice, therefore, this Court refrains from imposing any costs upon the petitioners.

(M. S. SONAK, J.)