

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.22112 OF 2015

Kirit Prabhulal Kapadia.	]	
Smt. Kanchan Prabhulal Kapadia (Deleted).	]	... Petitioner/ (Orig. Defendant)

Versus

Kamlesh Singh Harnamsingh Chowhan.	]	... Respondent/ (Orig. Plaintiff)
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Ms. Jyotsna P. Vyas for Petitioner.

Mr. Vivek Kantawala a/w Mr. Amey Patil i/b Vivek Kantawala & Co.
for Respondent.

CORAM :- M. S. SONAK, J.

DATE :- AUGUST 26, 2015

P. C. :-

1. In this case, it is pointed out that as against the eviction decree dated 30/04/2014, the Petitioner has instituted an appeal before the Division Bench of the Small Causes Court. There was some delay in instituting the appeal. The same is condoned and the appeal is also stated to have been admitted. The matter is now posted on 21/09/2015 for considering the Petitioner's application for stay against the eviction decree.

2. The learned Counsel for Respondent points out that for the last 8 years, the Respondent, through the course of law, has been

seeking recovery of possession of the suit premises. In these circumstances, it would be appropriate if the hearing scheduled for 21/09/2015 is preponed on 07/09/2015. The Appeal Court is directed to take up the Petitioner's application for interim relief on 07/09/2015 or in any case, within the week commencing on 07/09/2015.

3. Further, the application for stay to be disposed of within a period of one week from the date of its hearing. Until then and in case, stay on eviction is declined, then for a period of two weeks thereafter, the eviction decree dated 30/04/2014 shall not be put into execution.

4. It is made clear that this Court has not examined the merits of the matter and it is for the Appeal Court to examine the same.

5. Writ Petition is disposed of in the aforesaid terms.

(M. S. SONAK, J.)