

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11504 OF 2015**

Ashraf Saudagar Kassam

..Petitioner

Vs.

Aslam Kassam Merchant

..Respondent

**Mr. P. K. Dhakephalkar Senior Advocate, i/b Mr. Ram B Laxmipalli for the
Petitioner**

Mr. Aslam Kasam Merchant Respondent in person present

CORAM : R. M. SAVANT, J.

DATE : 3rd DECEMBER, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 9-9-2015 passed by the Appellate Bench of the Small Causes Court, by which order, the Misc Appeal being No.61 of 2015 filed by the Plaintiff i.e. the Petitioner herein, came to be dismissed and resultantly the order dated 10-8-2015 passed by the Trial Court came to be confirmed.

2 The Respondent herein is the original Defendant to the Suit in question being L.E. & C Suit No.60/78 of 2012 filed by the Petitioner herein for eviction of the Defendant on the ground that the Defendant was a gratuitous licensee and that his licence has been terminated. It is an undisputed position

that the Defendant resides on the 3rd and 4th floor of the building in question and the Plaintiff resides on the 1st and 2nd floor of the said building. The application in question Exhibit 70 came to be filed by the Defendant for the relief claimed which are more specifically mentioned in the said application, amongst which was the relief that he should not be obstructed from accessing his residence all 24 hours. The Defendant also sought the relief that towards the said end the lift should be operated all 24 hours.

3 The Trial Court considered the said application and has allowed the same by its order dated 10-8-2015. The Trial Court rejected the other reliefs sought vide the said application, however, in so far as the relief in respect of the lift was concerned, the Trial Court observed that since the Defendant is admittedly using the said facility, the said facility has to be made available to him for all 24 hours of the day.

4 The said order passed by the Trial Court dated 10-8-2015 was carried in Appeal. The Lower Appellate Court having regard to the facts prevailing in the instant case did not find any reason to interfere with the order passed by the Trial Court.

5 Having heard the Learned Senior Counsel appearing for the Petitioner and the Respondent appearing in person, in the light of the

concurrent orders passed the Courts below, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

6 However, in the facts and circumstances of the case, the hearing of the suit is expedited.

[R.M.SAVANT, J]