

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.693 OF 2016

IN

WRIT PETITION NO. 510 OF 2016

T. A. Mohammad Badruddin ..Petitioner/Applicant

Vs.

State Bank of India and Others ..Respondents

None for the Petitioner/Applicant..

Mr. Vivek Sawant,for the Respondent No.1.

**CORAM :- V.M.KANADE &
B.P.COLABAWALLA, JJ.**

DATE :- MARCH 15, 2016.

P. C.:

Though the counsel has taken urgent circulation, none appears on behalf of the Applicant/Petitioner.

2 The learned counsel for Respondent No.1 submits that the Petitioner is a partner of M/s B. M. S. Exports. He has invited our attention to an order passed by this Court on 1st April, 2015 in Writ Petition(L)No.848 of 2015 which was filed by M/s B. M. S.

Exports(the Petitioner). He has also invited our attention to the Petition which was filed by the said M/s. B. M. S. Exports. He submitted that in paragraph 1 of the said Petition, description of the property in which the Applicant claims to be the tenant has been described. He submits that in the said Writ Petition, M/s B. M. S. Exports have made an averment that they are licensee in respect of the said premises. He submits that the said Writ Petition was dismissed by an order dated 1st April, 2015.

3 It is contended that now the partner of the said firm-B. M. S. Exports (the Petitioner herein) claims to be a tenant in respect of the same premises.

4 At least prima facie we are of the view that the Petitioner has come up with the false case. From the leave and license agreement which is annexed to Writ Petition(L)No.848 of 2015, it can be seen that the Petitioner herein has signed the said leave and license agreement on behalf of M/s B.M.S.Exports as a licensee and the owner of the premises is shown as one Laxmi Devi

Kabra.

5 Having failed to secure any orders in the said Writ Petition, the Petitioner now makes a claim that he is a tenant of the said premises.

6 We fail to understand how the Petitioner can claim to be the tenant of the said premises when he himself as a partner of M/s B. M. S. Exports had signed the agreement with Laxmi Devi Kabra(the alleged owner of the premises) to take the said premises on leave and license. Prima facie it appears that the Petitioner obviously wants to take advantage of the recent decision of the Supreme Court in **Vishal N. Kalsaria v/s Bank of India and Others (Criminal Appeal No.52 of 2016)**.

7 In this view of the matter, we find no merit in the Civil Application and the same is therefore dismissed.

(B. P. COLABAWALLA, J.)

(V.M.KANADE, J.)