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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8404 OF 2015

Shri Anant Raghunath Chavan … Petitioner

Vs.

State of Maharashtra and others … Respondents

Ms.Rohini M.Dandekar, Advocate for the Petitioner.
Mr.R.D.Vora, Advocate for Respondents No.4 to 7.
Mr.D.A.Nalawade a/w Ms.Tulsi Dhami, Advocate for Respondent No.8

CORAM : R.G.KETKAR, J.
DATE : 13th JANUARY, 2016

P.C. :

. Heard Ms.Rohini M.Dandekar, learned Counsel for the petitioner and Mr.R.D.Vora, learned Counsel for respondents No. 4 to 7, and Mr.D.A.Nalawade, learned Counsel for respondent No.8.

2. By this Petition under Article 227 of the Constitution of India, original defendant has challenged the judgment and decree dated 08/03/2007 passed by the learned Judge presiding over Court Room No. 20 of the Small Causes Court at Mumbai in R.A.E. Suit No. 1444 of 2002 as also the judgment and decree dated 24/08/2009 passed by the Appellate Bench of the Small Causes Court at Mumbai in Appeal No. 380 of 2007. By these orders, the Courts below decreed the Suit instituted by the original plaintiffs and passed

decree of eviction.

3. Mr.Vora has raised preliminary objection on the ground that this Petition is not maintainable. He submitted that petitioner has earlier instituted Civil Revision Application 602 of 2009 challenging the very orders which are impugned in the present Petition. This Court (Coram : Smt.Nishita Mhatre, J.), after hearing the parties, dismissed the Civil Revision Application on 21/01/2010. He has tendered photocopy of the memo of Civil Revision Application No. 602 of 2009 as also order dated 21/01/2010. The same are taken on record and marked 'X' collectively for identification.

4. Mr.Vora further submits that after rejection of the Civil Revision Application, respondents No. 4 to 7 have taken possession on 24/02/2010. To that effect, bailiff has submitted report which is signed by the petitioner also. He has tendered photocopy of bailiff's report along with warrant of possession which is taken on record and marked 'Y' collectively for identification. In short, Mr. Vora submitted that as the petitioner had already instituted Civil Revision Application which is dismissed on 21/01/2010 and that respondents No. 4 to 7 have taken possession of the suit premises, this Writ Petition is not maintainable. Ms.Dandekar was not in a position to controvert this position. In fact, she accepted that respondents No. 4 to 7 have taken possession.

5. With the assistance of the learned Counsel appearing for

the parties, I have perused the memo of Civil Revision Application No. 602 of 2009. Perusal of this memo shows that in this application, petitioner herein has challenged the judgment and decree dated 08/03/2007 passed by the learned trial Judge of the Small Causes Court at Mumbai in R.A.E Suit No. 1444 of 2002 as also the judgment and decree dated 24/08/2009 passed by the Appellate Bench of the Small Causes Court at Mumbai in Appeal No. 380 of 2007. Civil Revision Application was dismissed by this Court on 21/01/2010. In view thereof, I find merit in the preliminary objection raised by Mr.Vora. This Petition is not maintainable as on merits Civil Revision Application was dismissed and respondents No. 4 to 7 have taken possession. Hence, Petition fails and the same is dismissed. Order accordingly.

(R.G.KETKAR, J.)