

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10898 OF 2015**

Smt Baljitkaur Prithapalsingh Sayan

..Petitioner

Vs.

**Jagannath Bala Patil (deceased)
through LRs & Ors.**

..Respondents

**Ms Priscilla S Nadar for the Petitioner
Mr. Vivek Gupta for the Respondent No.1**

**CORAM : R. M. SAVANT, J.
DATE : 15th FEBRUARY, 2016**

P.C.

1 The above Petition is nothing but an abuse of the process of the Court by the Petitioner. By the instant Petition the order dated 6-5-2015 passed by the Appellate Bench of the Small Causes Court rejecting the Revision Application filed by the Petitioner is taken exception to.

2 It is required to be noted that the Petitioner and her husband are faced with a decree dated 28-10-1999 passed in L.E. & C Suit No.593 of 1986. The said decree was confirmed by the Appellate Bench of the Small Causes Court by judgment and order dated 16-1-2014. The Revision Application filed by the husband of the Petitioner being Civil Revision Application No.351 of 2014 was also dismissed by order dated 26-10-2014 subject to the Petitioner therein giving an undertaking to this Court the interim order which was in operation was extended by a period of 12 weeks. Significantly the undertaking

was not filed. The husband of the Petitioner thereafter carried the matter by way of SLP to the Apex Court which was dismissed on 13-1-2016, as stated by the Learned Counsel appearing for the Respondent. The Petitioner and her husband failed to hand over possession resulting in the Respondent putting the decree in execution. In the Execution Application the Petitioner filed an application for dismissal of the Execution Application which application was rejected by the Executing Court resulting in an Appeal being filed by the Petitioner before the Appellate Bench of the Small Causes Court in which an application for stay was filed which was rejected by the Appellate bench resulting in filing of the Writ Petition No.4071 of 2015 by the Petitioner.

3 The principal ground on which the husband of the Petitioner had prosecuted the proceedings was on the ground that the premises are covered by notification issued under the Slum Act and therefore the Suit is not maintainable on the touchstone of Section 22 of the said Act. As indicated above, the said contention of the husband of the Petitioner has been rejected right throughout by the courts below as also by this court and as indicated above the SLP filed by the husband of the Petitioner has also been dismissed. The dismissal of the execution was sought on the self same ground namely that the land is covered by notification issued under the Slum Act and therefore the Suit filed without the permission of the competent authority was not maintainable. The application for stay was rejected by the Executing court

resulting in the filing of the said Writ Petition No.4071 of 2015. The said Writ Petition was dismissed by a Learned Single Judge of this Court and having regard to the adjudication which has taken place qua the husband of the Petitioner, the Learned Single Judge observed that filing of the application by the Petitioner was an abuse of the process of the Court and therefore imposed costs of Rs.25,000/- on the Petitioner. By the impugned order the said Revision Application No.99 of 2015 has finally been dismissed by the Appellate Bench of the Small Causes Court and thereby the order dated 20-2-2015 rejecting the application for dismissal of the execution proceedings was confirmed.

4 In the teeth of the various orders passed by this Court, as also considering the fact that the Petitioner, after her husband had exhausted his remedies is now filing applications after applications for reasons not far to seek, it is in the said context that it would have to be held that the filing of the proceedings by the Petitioner is an abuse of the process of the Court.

5 In my view therefore, no case for grant of any relief in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

6 The Petitioner to pay costs of Rs.5000/- to the Respondent within four weeks from date.

[R.M.SAVANT, J]