

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10076 OF 2015

Anil Nathuram More : Petitioner
versus
Vincent Alex Mendosa and ors. : Respondents

Petitioner in person present
Mr. V E Pereira for the Respondent No.1.

CORAM : R. M. SAVANT, J.
DATE : 11th February 2016

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 10/04/2015 passed by the Appellate Bench of the Small Causes Court, Mumbai by which order the Misc. Appeal No.473 of 2014 filed by the Petitioner herein came to be dismissed and resultantly the order dated 29/10/2014 passed by the learned Judge of the Small Causes Court, Mumbai rejecting the Application (Exhibit 38) came to be confirmed.

2 The said Application (Exhibit 38) was filed by the Petitioner herein under Order VII Rule 11 of the Code of the Civil Procedure questioning the maintainability of the suit on the touchstone of Section 22 of the Maharashtra Slum (Clearance, Improvement and Development) Act, 1971. It was the case of the Petitioner original Defendant that the land on which the suit premises are located has been declared as slum and therefore prior written permission of

the Competent Authority would be required for filing of the suit. The Petitioner has also questioned the status of the Plaintiff as Landlord.

3 The Trial Court considered the said Application and on the ground that a similar application filed earlier by the Petitioner being Exhibit 28 having been rejected by the order dated 04/09/2013 as also the Appeal filed against it being dismissed by the Appellate Bench of the Small Causes Court against which a Writ Petition has been filed in this Court, rejected the said Application (Exhibit 38). The Appellate Bench of the Small Causes Court on the Appeal being carried to it by the Petitioner re-iterated the said ground and accordingly dismissed the Appeal. It seems that the Writ Petition filed by the Petitioner being Writ Petition No.7937 of 2014 came to be dismissed by a learned Single Judge of this Court by the order dated 21/07/2015 against which the Petitioner had filed a Review Petition being No.125 of 2015 which Review Petition also came to be rejected by the same learned Single Judge by order dated 12/10/2015.

4 In so far as the order passed by the Trial Court i.e. the order dated 29/10/2014 is concerned, the Trial Court has in terms observed that the contention raised on behalf of the Petitioner would require evidence to be led and it is only after the evidence is led that the issue can be decided. It seems that the Trial Court is proceeding with the suit in question and presently the

Plaintiff's witness is under cross examination. In that view of the matter, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]