

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

WRIT PETITION NO. 10788 OF 2016

M/s.H.K.Agarwal & Co.

... Petitioner

v/s

The State of Maharashtra & ors.

... Respondents

Mr.Pratap Patil for the petitioner.

None present for the respondents.

Coram: N.M. Jamdar, J.

Dated: 19 September 2016

P.C.:

Not on board. Taken on production board in view of the *praecipe* filed by the Petitioner.

2 Heard learned counsel for the Petitioner.

3 The Petitioner is aggrieved by the order below Exh.138 in Miscellaneous Civil Application No.306 of 2013. It appears that the apprehension of the Petitioner is that the learned District Judge, who is hearing the appeal, is not empowered under the provisions of the Bombay Government Premises (Eviction) Act, 1955. In the

impugned order, the learned District Judge has opined that the Court is competent to adjudicate upon this dispute. The learned counsel for the Petitioner states that this view is not correct as that only Principal District Judge or any District Judge specifically designated by the Principal Judge, can hear the appeal. It is also informed that the hearing of the appeal is kept tomorrow. Since the learned District Judge has not finally concluded the appeal and this issue goes to the root of the jurisdiction, if the Petitioners point out the above position and if it is found correct, the learned District Judge will no doubt consider the position and pass orders as per law. Therefore, the Petitioner can advance the contention which is advanced before this Court in this petition, before the learned District Judge.

4 With this clarification, the writ petition is disposed of.

(N. M. Jamdar, J.)