

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

WRIT PETITION NO.10699 OF 2015

Jivartna Medi Treat Private Limited : Petitioner
versus
The ICICI Bank Limited : Respondent.

Mr. P S Dani, Senior Advocate i/by Mr. S S Shah for the Petitioner.
Mr. Mayur Bhojwani a/w Ms. Prergana B i/by Manilal Kher Ambalal & Co.
for the Respondent.

CORAM : R. M. SAVANT, J.
DATE : 07th January 2016

P.C.

1 The order dated 06/10/2015 passed by the Appellate Bench of the Small Causes Court, Mumbai rejecting the Application (Exhibit 9) filed by the Petitioner herein i.e. the Plaintiff seeking withdrawal of the amount is taken exception to by way of the above Petition.

2 The said Application has been rejected on the ground that the same is not maintainable. Though the learned Senior Counsel Shri Dani appearing for the Petitioner sought to raise contentions as regards the finding of the Appellate Bench of the Small Causes Court as regards maintainability of the Application (Exhibit 9), the learned Senior Counsel on instructions thereafter submitted that the Petitioner would be satisfied if the Appeal in question being Appeal No.263 of 2015 is directed to be disposed of within a particular time frame, since the Appeal involves a challenge to the order passed

in respect of the mesne profits.

3 In my view, since the controversy lies in a narrow compass, it would be just and proper to direct the Appellate Bench of the Small Causes Court to hear and decide the said Appeal No.263 of 2015 latest by 30/04/2016. It is clarified that the instant order should not be construed as any expression of opinion on the merits of the matter or the impugned order. Needless to state that the said Appeal would be decided on its own merits and in accordance with law. It would be open for the Appellate Bench of the Small Causes Court whilst deciding the said Appeal to issue final directions in respect of the deposit that is made by the Respondent-Bank. With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]