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

WRIT PETITION NO. 9413 OF 2016

Mr. Hemendra Jamnadas Jethwa & Ors. .. Petitioner
Vs
Mrs. Chetana Viral Shah & Ors. .. Respondents

Mr. Haresh Lulia for the Petitioner.

***CORAM : N.M.Jamdar, J.
Thursday, 17 November 2016.***

ORAL ORDER:

The learned counsel for the Petitioner submitted that the only ground on which the application for grant of compensation payable by the Respondent-obstructionist was rejected by the Small Causes Court Judge, was that there is already an order passed in favour of the Petitioner-plaintiff by the Appellate Court and the High Court. The learned counsel for the Petitioner submitted that neither the appellate court nor this Court has passed any order granting compensation to the Petitioner and therefore on the face of it there is an error committed by the learned Judge.

2. Prima facie it appears that the learned Judge has relied upon order of the appellate bench as well as this Court which do not exist. If this be the position, it will be open to the Petitioner to bring to the notice of the learned small causes court that there is no such

order passed by the appellate bench as well as this Court. The learned counsel for the petitioner states that if this liberty is granted the petition will be withdrawn. Accordingly, the writ petition is allowed to be withdrawn with liberty to move an application for recalling/modification/rehearing of the application below Exh. 12 to the learned Small Causes Court Judge. Considering that the fact, suit is pending since the year 1985, the application so made will be decided at the earliest.

(N.M.Jamdar, J.)