

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.123 OF 2016

M/s. Neel Kamal Exhibitors Pvt. Ltd.

.. Petitioners

Versus

Haji Haroon Haji Kassam and others

.. Respondents

Mr. R. J. Kusnur, for the Petitioner.

Mr. Pritesh K. Vyas, for the Respondents.

CORAM : R.M. SAVANT, J.

DATE : 25th FEBRUARY 2016

PC.

1. The order dated 29.03.2012 passed by the Appellate Bench of the Small Causes Court, Mumbai, dismissing the Appeal in question is taken exception to by way of the above Petition. The said Appeal being No.97 of 2007 was directed against the order dated 10.01.2007 passed by the Learned Judge of the Small Causes Court, by which order the relief of interim mandatory order in application Exh.7 filed for injunction came to be granted. The ad-interim mandatory order is to the effect that the Defendants i.e. the Petitioners herein are restrained from forcibly dispossessing or disturbing the possession of the Plaintiffs directly or indirectly of the of the suit premises described in paragraph Nos.5 and 5(a) to (i) without following due process of law. Though the order has

been passed as long back as on 29.03.2012, the instant Petition has been filed on 16.12.2015 i.e. good three years and nine months after the said order dated 29.03.2012 came to be passed.

2. The Learned Counsel appearing on behalf of the Respondents Mr. P. K. Vyas questions the maintainability of the above Petition having regard to the fact that the challenge is raised to an order passed as long back as on 29.03.2012. In my view, having regard to the said fact, the above Petition can be said to be suffering from delay and laches. It is also required to be noted that the injunction is in operation since 10.01.2007. Hence, on both the counts i.e. on the ground of delay and laches and also on the ground that the ad-interim mandatory order is in operation for more than nine years, the above Writ Petition is dismissed.

3. Since the suit is already expedited by the Appellate Bench of the Small Causes Court, no further directions are required to be issued.

[R.M. SAVANT, J]