

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12822 OF 2015**

Avinash Jagannath Waghdhare

..Petitioner

Vs.

M/s. Thakoor Constructions & Anr.

..Respondents

Mr. Kunal Bhanage for the Petitioner

Mr. P. G. Karande for the Respondent No.1

CORAM : R. M. SAVANT, J.

DATE : 5th JANUARY, 2016

P.C.

1 The Order dated 7-12-2015 passed by the Appellate Bench of the Small Causes Court rejecting the application Exhibit 6 for stay pending the Revision Application No.268 of 2015, is taken exception to by way of the above Petition. The said Revision Application has been filed against the order rejecting the Marji Application No.714 of 2014 which was filed by the Petitioner seeking condonation of delay in filing the application under Order IX Rule 13 of the Civil Procedure Code. The Appellate Bench of the Small Causes Court has rejected the application on the ground that though the Appellate Bench of the Small Causes Court was ready to hear the stay application i.e. the application Exhibit 6 along with the Revision Application, there was a reluctance on the part of the Petitioner to do so which has constrained the Appellate Bench of the Small Causes Court to reject the said application Exhibit 6.

2 In my view, without interdicting with the impugned order, however by directing the Appellate Bench of the Small Causes Court to dispose of the Revision Application No.268 of 2015 within a particular time frame the above Petition can be disposed of. Hence the following directions:

(i) The Appellate Bench of the Small Causes Court is directed to hear and decide the Revision Application No.268 of 2015 latest by 31-1-2016.

(ii) It would be contingent upon the decision that would be rendered by the Appellate Bench of the Small Causes Court in the Revision Application that the entitlement of the Petitioner to apply for interim stay would arise.

(iii) Needless to state that if any such eventuality arises for the Petitioner to apply for interim stay, the impugned order would not come in the way of the Petitioner from prosecuting such application.

(iv) It is expected of the Petitioner that he would co-operate in the disposal of the Revision Application within the time stipulated by the instant order and not to ask for any unnecessary adjournments. The same is also expected of the Respondents who would also co-operate in the early disposal of the Revision Application.

(v) The contentions of the parties are kept open for being urged before the Appellate Bench of the Small Causes Court and the issuance of the directions as aforesaid should not be construed as any expression of opinion on the merits of the matter.

3 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]