

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 585 OF 2012
AND
CIVIL APPLICATION NO. 761 OF 2012
AND
CIVIL APPLICATION NO. 833 OF 2014

Mr. Hemanshu K. Kansara and ors. .. Appellants
vs.
Controller of Accommodation
General Administration Department and ors. .. Respondents

None for the Appellant.

Mr. Y.Y. Dabke, Asst. Govt. Pleader for Respondent No.1.

Mr.Sharique Nachan i/b.Judicare Law Associates for Respondent No.4.

CORAM : M. S. SONAK, J.
DATE : 20 JANUARY 2017.

P.C. :-

1] The appellants or their learned counsel are not present though this appeal has been duly notified on the cause list.

2] Mr. Nachan, learned counsel appears for respondent Nos.2 to 4 and Mr. Dabke, learned Asst. Govt. Pleader appears for respondent No.1.

3] This appeal challenges the order dated 16 April 2002, the operative portion of which, reads as follow;

“1 Suit No. 2508 of 2011 is barred in view of section 8(F) of the Bombay Land Requisition Act, 1948.

2 Chamber/Summons disposed off in view of the said order.”

4] At least *prima facie*, such an order is not appealable under section 104 of CPC read with Order 43 Rule 1 of CPC. That apart, learned counsel for respondent Nos.2 to 4 submit that after making of the impugned order, the appellants have already instituted R.A.D. Suit No. 1866 of 2011 before the Small Causes Court at Mumbai seeking a declaration of tenancy in respect of suit premises and consequently protection in respect of their possession in the suit premises. It is possible that it is for this reason that neither the appellants nor their advocate are present in the court today accordingly.

5] This appeal from order is dismissed. Such dismissal shall be without prejudice to the rights and contentions of the parties. The civil applications do not survive and the same are also disposed of.

(M. S. SONAK, J.)

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