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

WRIT PETITION NO. 1347 OF 2017

Mr. Mukesh Raishi Chheda.

... Petitioner.

V/s.

Mr. Dhirajlal Raishi Chheda & Ors.

... Respondents.

Mr. Y. Ghogan i/b. Jatin Sheth for the Petitioner.

Mr. Kishore Jain i/b. Shah & Furia Assoc. for the Respondents.

CORAM : N.M. Jamdar, J.

31 January, 2017.

P.C. :-

Not on board. Taken on production board by way of praecipe.

2. By this Writ Petition, the Petitioner has challenged the order passed by the learned Small Causes Court Judge dated 10 January 2017 rejecting the Application filed by the Petitioner for the stay of the suit.

3. Heard learned Counsel for the parties.

4. The learned Counsel for the Petitioner submitted that the Respondents have produced certified photocopy of the rent receipts in the present suit and the originals have been produced in the suit which is subject matter of Writ Petition (St.) No. 33445 of 2016. He submitted that these Writ Petitions are listed on board and liberty is given to the Petitioner to seek adjournment in the said suit. In view of this position, the present suit should also be adjourned. The learned Counsel for the Respondents opposes and submits that these are entirely different proceedings and the learned Judge is in the midst of the hearing.

5. In the impugned order the learned Judge has observed that there is no stay to the suit which is being heard. This position is technically correct. However, if during the hearing of the suit the learned Judge finds that the decision in respect of the genuineness of the rent receipt or otherwise, which is one of the contentions of the Petitioner, will require adjudication qua the original receipts which is subject matter of Writ Petition No. 33445 of 2016, then it will be open to the learned Judge to pass an appropriate order deferring the suit accordingly. Therefore, giving this discretion to the learned Judge, keeping in mind the stage at which the suit is, the Writ Petition is disposed of. The learned Small Causes Court Judge while disposing of the suit will keep in mind that fair and adequate

opportunity is given to all parties and there is no multiplication of proceedings.

6. The learned Counsel for the Petitioner states that the learned Judge has closed the arguments of the Petitioner. He submits that because the Petitioner was pursuing the challenge to the impugned order, the arguments could not be advanced in extention. The learned Counsel for the Petitioner tenders an apology for the same. The learned Counsel for the Petitioner states that an apology will also be tendered to the learned Small Causes Court Judge. In view of the apology tendered by the learned Counsel for the Petitioner which also be tendered to the learned Small Causes Court Judge, the learned Judge will permit the Advocate for the Petitioner to make his submissions in the suit.

(N.M. Jamdar, J.)