

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4606 OF 2017**

Deepak Automobiles, through its partner	...Petitioner
<i>Versus</i>	
Vaijanath Dattatray Rukari	...Respondent

Mr Siddharth C Wakankar, *for the Petitioner.*

CORAM: G.S. PATEL, J
DATED: 13th November 2017

PC:-

1. Heard.

2. In fairness Mr Wakankar points out that possession has been handed over to the landlord. Unfortunately he has no instructions to withdraw the Writ Petition and, therefore, he must argue it and I must decide it.

3. This challenge is to an order of the Appellate Court dated 21st September 2016. The petitioner sought to set aside an ejectment decree on the ground that the suit summons were not properly served. The bailiff went to the premises twice and finding them locked, ultimately pasted the summons.

4. It was first argued that an order was required for pasting. The Appellate Court held to the contrary. There then followed this simple submission that since the petitioner's shop had business hours from 9.30 a.m. to 1.30 p.m. and then from 3.30 p.m. to 6.30 p.m., no service could have been effected except at those times, and certainly not in the intervening period, presumably a siesta break, when the shop was closed. This argument should have been rejected for the asking. If there is a fault to be found with the Appellate Court's order, it is that it took this argument seriously and actually examined the record to find a supporting pleading. It found none and dismissed the appeal.

5. I find no cause for interference. The Writ Petition is rejected. There will be no order as to costs.

(G. S. PATEL, J.)