

$1/3$

property from attachment. The Special Court released the subject property from attachment. However, the possession of the same was handed over to respondent No.2. The appellant contends that it is the owner and, therefore, the possession could not have been given to respondent No.2 and, therefore, it is constrained to approach this Court.

3. Mr. Ganbawale, learned counsel for respondent No.2 stated that the appellant leased the subject property to respondent No.1 for a period of 99 years and respondent No.1 in turn sub-leased it to respondent No.2. He submitted that, at the time of attachment, respondent No.2 was in possession and, therefore, the Special Court rightly directed to handover the possession of the subject property to respondent No.2.

4. We have gone through the impugned order. In paragraph 24, the learned Special Judge has observed that the appellant-society has not disputed that respondent No.2 is in possession of the said property. The capacity, in which, respondent No.2 is in possession cannot be decided in criminal proceedings. If the appellant-society is claiming some right in respect of the property, it can always approach the Civil Court and, in fact, such liberty has been granted by the learned Special Court. The learned Special Judge also observed that the handing-over of

the possession of the subject property to respondent No.2 would be subject to the final outcome of the dispute between the parties in the Civil Court.

5. In the above circumstances, we do not find any merit in the petition. The writ petition is, accordingly, dismissed.

(PRAKASH D. NAIK, J.)

[RANJIT MORE, J.]