

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

WRIT PETITION NO.4485 OF 2017

Maharaja Saheb Jyotendra Singhji
Vikram Singhji Jadeja

...Petitioner

V/s.

Mohan Parmanand Mahatani
And Anr.

...Respondents

....

Mr.Anand Pande for the Petitioner.

Mr.Manjiri Parasnis for Respondent No.1.

Mr.A.F. Shaikh i/by Mr.Khan Javed Akhtar for Respondent No.2.

....

CORAM : B.P. COLABAWALLA, J.

DATE : 07th JUNE 2017

P.C. :

1. Rule. Respondent waives service.
2. By consent of parties. Rule made returnable forthwith and heard finally.
3. After this Writ Petition was argued for some time the learned Advocate appearing on behalf of Respondent No.1 who is the only contesting Respondent in this Writ Petition fairly stated that she is unable to sustain and justify the order dated 16th March 2017

passed by the Appellate Bench of the Small Causes Court at Bombay in Revision Application No.68 of 2017. She however submitted that 1st Respondent be granted liberty to challenge the original order dated 23rd February 2013 by which her application leading evidence on behalf of the 1st Respondent was rejected. In view of this fair stand taken by the 1st Respondent the order passed by the Appellate Bench of the Small Causes Court dated 16th March 2017 is quashed and set aside.

4. The 1st Respondent is at liberty to challenge the order dated 12th February 2013 as well as 23rd February 2013. I make it clear that merely by granting this liberty does not mean that I have opined either on the maintainability or the merits of such a challenge. Any such challenge as put-forth by the 1st Respondent, shall be considered by the appropriate forum in accordance with law and totally uninfluenced by any observations made herein including the issue of limitation of delay and laches if any.

5. Rule is made absolute in the aforesaid terms.

(B.P. COLABAWALLA, J.)