

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

WRIT PETITION STAMP NO.12138 OF 2017

**Ashish Pratap Doshi and anr. : Petitioners.
versus
M/s. Swift Telecom Private Limited
and ors. : Respondents.**

**Mr. R P Ojha for the Petitioners.
Mr. P K Dhakephalkar, Senior Advocate a/w Mr. Ashish Kamat i/by M/s.
Federal & Rashmikant for the Respondent No.1.**

**CORAM : R. M. SAVANT, J.
DATE : 03rd MAY 2017**

P.C.

1 The order dated 11/04/2017 passed by Appellate Bench of the Small Causes Court dismissing the Revision Application filed by the Petitioners as also the Order dated 16/03/2017 passed below Exhibit 17 by the Trial Court is taken exception to by way of the above Petition. By the said Order dated 16/03/2017 the Trial Court held that the Application (Exhibit 9) filed by the Respondent No.1 would be first proceeded with and not the Applications (Exhibits 8 and 12) filed by the Petitioners/Obstructionists.

2 The said Application (Exhibit 9) has been filed by the Respondent No.1 the assignee of the Decree Holders for directions that the Petitioners i.e. the Obstructionists be directed to deposit compensation for the occupation of the premises pending adjudication of the Obstructionist Notice. The

Applications (Exhibits 8 and 12) have been filed by the Petitioners on the ground that the Trial Court did not have the jurisdiction to try the Suit and that the Petitioners are claiming independently of the Judgment Debtors. The Trial Court has chosen to adjudicate the Application (Exhibit 9) on the ground that the Applications (Exhibits 8 and 12) would require evidence etc. to be led of the parties and would therefore take time. It seems that in so far as application (Exhibit 9) is concerned, the Applicants i.e. the Decree Holders have already been heard.

The Petitioners took exception to the said Order dated 16/03/2017 by filing a Revision Application. As indicated above the Revision Application has been dismissed by the Appellate Bench of the Small Causes Court by the impugned order dated 11/04/2017.

3 In my view, even if the Application (Exhibit 9) filed by the Respondent No.1 is allowed and an amount is fixed as interim compensation pending adjudication of the Obstructionists' Notice, the same would lie in deposit in the Trial Court and would also be without prejudice to the rights and contentions of the parties. Hence there is no warrant to interfere with the impugned order. The above Writ Petition is accordingly dismissed. However, the Trial Court after adjudicating the Application (Exhibit-9) would also adjudicate the Applications (Exhibits 8 and 12) filed by the Petitioners

expeditiously.

4 At this stage, the learned counsel for the Petitioners prays for stay of the instant order. In the facts and circumstances of the present case, the said prayer is rejected.

[R.M.SAVANT, J]