

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3604 OF 2017
IN
FIRST APPEAL NO.124 OF 2002

Shri Suryabali R. Chauhan ... Applicant/Appellant
Vs.
Vaishali Co-op. Housing Society Ltd. & anr. ... Respondents

Mr.Ramesh Dube Patil with Ankur Pahade i/b Shraddha Dube Patil
and Co. for the Appellant

Mr.Kiran Jain with Ms.Nita Solanki i/b Kiran Jain & Co. for
Respondent No.1

Ms.M.R. Bhoir for Resp. No.2

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: NOVEMBER 24, 2017

P.C.:

1. The Civil Application is moved by the appellant for stay of the execution proceedings taken out by the respondents in the City Civil Court pursuant to the judgment and order dated 14.6.2001 in L.C. Suit No.2079 of 1994. Further, by prayer clause (b) in the application, the appellant prays that his appeal be expedited.

2. Learned Counsel for the applicant submitted that in the suit before the Small Causes Court i.e., R.A.D. Suit No.6296 of 1978, by

judgment and order dated 5.2.2000, the Small Causes Court had decreed the suit and the defendants were restrained by order of permanent injunction not to obstruct the possession of the plaintiff in the suit premises. He submitted that by the said suit, the Small Causes Court had declared him as a tenant. Under such circumstances, he submitted that the appeal is admitted and his possession is to be protected and the execution proceedings be stayed.

3. Learned Counsel for the respondent – society submitted that in the suit No.6296 of 1978 before the Small Causes Court, the respondent i.e., original plaintiff, was not a party and it was a suit for injunction. The suit was not for declaration of tenancy. He pointed out that by order dated 27.2.2006, the earlier Civil Application for stay was rejected by this Court.

4. Perused the orders passed by this Court and also the judgment of the trial Court. In view of the order passed by this Court on 27.2.2006, no stay can be granted by this Court. Hence, the prayer for stay is rejected. However, as per prayer clause (b), as the appeal is of the year 2002, it is expedited and fixed for final hearing in the week commencing from 5.2.2018. In the meanwhile, the appellant to

furnish to the respondents the paperbook alongwith all the exhibited documents and evidence.

5. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)