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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO.7313 OF 2015

M/s. East & West Trading Co.& Ors. ..Petitioners.

V/s.

The Board of Trustees of the Port
of Mumbai & Ors. ..Respondents.

Mr.P.S. Dani, Senior Advocate with Mr.Yatin Shah and Ms.Aditi Bhat for the Petitioners.

Mr.Vishal Talsania with Ms.Sneha Pandey i/b. Motiwalla & Co. for Respondent No.1.

CORAM : N.M.Jamdar, J.

DATED : 1 February, 2017

P.C. :-

Heard the learned counsel for the parties. By this petition, the Petitioner has challenged the order passed by the learned Small Cause Court dated 24 January, 2014 and the order passed by the Appellate Bench dated 15 September, 2014 rejecting the application filed by the Petitioner for stay of the obstructionist notice. The stay was sought on the ground that a reference has been made in the judgment and order to the case of ¹*Hussainali S. Punjawani V/s. Board of Trustees of Port Trust of Bombay* and that

¹ 2012 (3) Bom C.R. 579

issue of jurisdiction of the Small Cause Court is under consideration of a Larger Bench. The learned Small Cause Court judge has considered this decision and has taken view that the Small Cause Court will have jurisdiction. This order has been confirmed by the Appellate Court. Though the order has been passed deferring the issue to the Larger Bench, there is a settled law that is holding the field. Therefore, the stay of the proceedings before the Small Cause Court is not warranted. However, when the proceedings are finally disposed of by the Small Cause Court, this finding would be part of the final order that would be passed. After such final order is passed, it would be open for the parties to challenge the same in further proceedings as and when the need so arises. With this clarification, the writ petition is disposed of.

(N.M.Jamdar, J.)