

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14343 OF 2016

Rajendra Ramakant Vedpathak	...Petitioner
<i>Versus</i>	
Tarvidersingh Harbansingh Popari & Ors	...Respondents

Mr Shriram Kulkarni, *for the Petitioner.*
Mr Suresh Dubey, *for the Respondents.*
Mr, i/b Asharam Shukla, *for Respondents Nos.3 & 4.*

CORAM: G.S. PATEL, J
DATED: 24th November 2017

PC:-

1. **Rule.** Respondents waive service. By consent, returnable forthwith and taken up for hearing and final disposal.

2. The Writ Petition is directed against an order dated 9th December 2016 by which the Appellate Court declined to grant a stay pending the Petitioner's Appeal against an eviction decree on the sole ground that the Petitioner suppressed in his stay application that in previous proceedings that the matter had travelled to the Supreme Court.

3. Mr Kulkarni has at some pains to points out that there is considerable history to the litigation. The Petitioner's father had in

fact obtained a declaration in his favour of the tenancy, but yet was not joined to the subsequent ejectment action. It was that subsequent action that was taken to the Supreme Court. He further submits that although in the stay application there may not be a specific mention of the matter having travelled to the Supreme Court, this was nonetheless part of the record and was not suppressed from the record before the Court.

4. I do not believe that there is the kind of suppression that the Appellate Court said there was, and at least one such sufficient to the justify the refusal of all interim relief, for that would render the Petitioner's appeal completely otiose.

5. No prejudice will be caused to any party if rule is made absolute and the stay is granted, coupled with a direction or request to dispose of the appeal expeditiously and preferably within six months from today.

6. Hence the following order:

- (a) The impugned order is quashed and set aside and rule is made absolute;
- (b) Execution of the impugned decree is stayed during the pendency of Regular Civil Appeal No.991 of 2016.
- (c) The Appellate Court is requested to dispose of that appeal within a period of six months from today.

(d) All contentions are specifically left open.

7. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)