

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5270 OF 2017

Shri Iqbal Satter Memon	.. Petitioner
Vs.	
Ravindra Vishnu Pahadi and ors.	.. Respondents

Mr. Rajesh Bhaskar Parab, for the Petitioner.

CORAM : M.S.KARNIK, J.

DATE : 07th FEBRUARY, 2019

P.C. :

. The petitioner- original tenant assails the order passed by the learned District Judge-10, Thane in Misc. Civil Appeal No. 120 of 2016 dismissing the Appeal filed by the petitioner. Before the Appellate Court, the petitioner had challenged the order passed by the trial Court rejecting application - Exhibit 5 for injunction. It is the case of the petitioner that he was the tenant in respect of the suit property. Learned Counsel for the petitioner urged that though the petitioner is in possession of the suit property in his capacity as a tenant, but the respondents – defendants want to demolish the

suit structure and construct a new structure thereby extinguishing the tenancy right of the petitioner. It appears that the Corporation has issued a notice dated 28/07/2014 for dismantling the suit structure on the ground that structure is dilapidated. The Appellate Court has observed that it is not the case of the tenant that the said notice has been issued at the behest of the landlord.

2. In this view of the matter, as the suit structure is dilapidated and a notice has been issued by the Corporation for dismantling the structure, order passed by the Courts below refusing the injunction cannot be said to be perverse so as to warrant interference. In view of the findings of the Courts below, I am not inclined to interfere with the impugned order in exercise of writ jurisdiction under Article 227 of the Constitution of India. Petition is rejected.

3. Considering the controversy involved, the trial Court is requested to hear the Suit expeditiously.

(M.S.KARNIK, J.)