

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.9537 OF 2019

Vijay Lakshminarayan Shukla	...	Petitioner
Versus		
M/s Ish Homes Pvt. Ltd.		
And Others	...	Respondents

Mr. Tanvir Abdul Hamid Shaikh for the Petitioner.

CORAM : S.C. GUPTE, J.

DATE : 3 SEPTEMBER 2019

P. C. :

. Listed at Sr. No.55. At the request of learned Counsel for the Petitioner, called out for hearing out of turn.

2 This writ petition challenges an order passed by the Appellate Bench of Small Causes Court at Mumbai, rejecting a miscellaneous appeal from a MARJI application in an eviction suit. The MARJI application was for restoration of possession of the suit premises, consisting of a room and was made to the executing court on the basis of a decree of eviction. That application was rejected by the executing court, against which, a miscellaneous appeal was preferred to the Appellate Bench. By its impugned order, the appeal was rejected by the Appellate Bench. The ad-interim injunction restraining the landlord, who had recovered possession of the suit premises from

the Appellant was, however, continued for a limited period. That period expires today. In the meantime, the decree of eviction itself is the subject matter of challenge in appeal presented to the Appellate Bench of the Court of Small Causes at Mumbai. In that appeal, an ad-interim application has been preferred by the Appellant seeking a restraint order on creation of third party rights by the landlords, who have recovered possession of the suit premises in pursuance of the decree. Time has been sought in that application by the Respondents-landlords. The application is now before the Small Causes Court at Mumbai tomorrow, i.e. 4 September 2019. Learned Counsel for the Petitioner submits that if the interim order obtained as of date in the disposed of miscellaneous appeal of the Petitioner is extended by a day, he would seek appropriate orders in that behalf from the Appellate Bench of the Small Causes Court in his main appeal, since anyway the ad-interim application is coming up for hearing tomorrow.

3 In the premises, the writ petition is disposed of as not pressed, but the interim protection granted by the Appellate Bench dated 10 July 2019, is extended till tomorrow, i.e. 4 September 2019, to enable the Petitioner to apply for appropriate interim orders before that court. It is made clear that if for any reason, the interim application of the Petitioner cannot be taken up by the Appellate Bench, his application for continuation of ad-interim order obtained in the miscellaneous appeal and continued today by the present order, shall be anyway considered by the Appellate Bench.

(S.C. GUPTE, J.)