

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7893 OF 2019

Hawabai Ibrahim Tambe & Ors. ..Petitioners

Vs.

Hublal Satnarayan Chorasias & Ors.
(since deceased) through LRs.& Ors. ..Respondents

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Mr. S. P. Rajepandhare, for the Petitioners.
None for the Respondents.

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CORAM : C.V BHADANG, J.
DATE : 02nd FEBRUARY 2021

P.C.

On 30/9/2019, a notice indicating that the petition may be disposed of finally at the stage of admission, was issued to the respondents. The petitioners have filed an affidavit of service. The respondents are shown to be served. However, none appears for the respondents. Even otherwise considering the fact that the petitioners are only seeking expeditious hearing of the appeal before the Small Causes Court, there is no adverse order being passed against the respondents in this case.

2. I have heard the learned counsel for the petitioners.

3. The petitioners are the original plaintiffs, in a suit of the year 2006 and there is a decree of eviction obtained by the petitioners against the respondents which is subject matter of challenge in an appeal of the year 2015 which is pending before the Appellate Bench of Small Causes Court at Mumbai. It appears that the petitioners had filed an application (Exh.13) in the said appeal, seeking expeditious hearing of the appeal on the ground that the petitioner No.2 (respondent No.2 in the appeal) being 67 years of age, is a senior citizen. The Appellate Bench pass the following order on 27/1/2016 below Exh.13.

ORDER

- . *Application is allowed.*
- . *The priority for final hearing of the present appeal will be given considering other Hon'ble High Court, Hon'ble Supreme Court time bound matters as well as five years and ten years old matters and other expedited matters of senior citizens on particular given dates.*

4. The petitioners filed yet another application (Exh.22) seeking expeditious hearing of the appeal which has been rejected by the impugned order dated 22/3/2019 inter alia, on the ground that there are 10 years and 15 years old matters and some High Court expedited matters pending. The Appellate Bench has observed that

the petitioners have not prayed for expeditious hearing of the appeal under any special category such as 'senior citizens'.

5. However, as the order below (Exh.13) would indicate that the Appellate Bench had earlier granted expeditious hearing on the ground that the petitioner No.2 (respondent No.2 in the appeal) was a Senior Citizens then aged 67 years who is now stated to be 72 years of age.

6. Considering the over all circumstances, the following order is passed.

ORDER

1. The Petition is allowed.
2. The impugned order is hereby set aside.
3. The Appellate Bench shall grant appropriate priority to the said appeal under the category of 'senior citizens' subject to other expedited categories.
4. The petition is disposed of in the aforesaid terms.

C.V. BHADANG, J.