

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO. 323 OF 2018
ALONGWITH
CIVIL APPLICATION NO. 191 OF 2018
IN
SECOND APPEAL NO. 323 OF 2018**

Shri Henry Jujepaul Borjes ...Appellant
vs.
Shri Jaysingh Mohanrao Shinde ...Respondent

Mr. Abhay Thorat - Advocate for the Appellant
Mr. Amit Karle a/w Adv. Ankit Jadhav – Advocate for the Respondent

CORAM : S. M. MODAK, J.

DATE : 23rd SEPTEMBER, 2022

P.C. :-

1. Heard learned Advocate for the respective parties. Circulation is sought on behalf of the Respondent.
2. Learned Advocate for the Respondent criticized the conduct of the Appellant being instrumental for delaying execution and not arguing the matter for admission. Copy of the Order passed by the Executing Court on 28/06/2022 is produced on record and marked as “Annexure-X”. There is no dispute that ad-interim relief is still in operation. Even though it is true that the matter is not argued for admission for any reason, learned advocate for the Appellant submitted that whatever status was submitted before the executing Court on 28/06/2022 is on the basis of the Orders

obtained from the website of this Court.

3. During the hearing of the learned Advocates for the respective parties, it reveals that there is an eviction decree passed by the trial Court on the ground of bonafide requirement and it is confirmed by the First Appellate Court. The suit is filed on the background of relationship as landlord and tenant. As contemplated under the provision of Section 34 of the Maharashtra Rent Control Act only First Appeal is maintainable.

4. Learned Advocate for the Appellant seeks to convert this Appeal. It is true that Second Appeal is not maintainable in a Rent Act matter, the Appellant is required to file appropriate proceedings.

5. In view of that following Order is passed :

- (i) The Second Appeal is disposed of as not maintainable.
- (ii) The Appellant is granted liberty to file appropriate proceedings.
- (iii) The Appellant is granted three weeks' time to file an appropriate proceedings and till that time ad-interim relief granted by this Court is extended.
- (iv) The Appellant is at liberty to pray for condonation of delay and Respondent is at liberty to oppose the same on merits.
- (v) Civil Application and Interim application, if any, stand disposed of.

[S. M. MODAK, J.]