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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 7285 OF 2018

RAHUL BHIMRAO DALVI AND ANR PETITIONERS

V/s.

BALASO MADHAVRAO PATIL AND ORS RESPONDENTS

Mr. Kuldeep U. Nikam for the petitioners

Mr. Tukaram Shendage i/b Mr. Pratap Patil for respondent no. 1

CORAM : NITIN W. SAMBRE, J.

DATE: JANUARY 7, 2022.

P.C.:

1] Petitioner-defendant invoked Order XIV of Code of Civil Procedure, 1908, alleging that as status of petitioner as protected tenant was not denied by the respondent-plaintiff, adjudication of issue no. 1 in relation to same is not required and as such, prayed for deletion of same which prayer vide impugned order is rejected.

2] I have perused the pleadings of the rival parties in the Complaint so

also in the counterclaim.

3] In the counter claim, petitioner-defendant has prayed for declaration as protected tenant and injunction whereas respondent-plaintiff has taken out Suit proceedings for redemption of mortgage and possession.

4] Considering nature of pleadings and prayer made by rival parties to the Suit, even if status of the petitioner is not denied as that of protected tenant, Court below, in my opinion, was justified in rejecting the prayer, particularly having regard to the rival claims put forth by the parties to the suit. That being so, no case for interference in extraordinary jurisdiction is made out. Petition fails, stands dismissed.

[NITIN W. SAMBRE, J.]