

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.9651 OF 2021**

Mohammed Shafi Abdul Majeed ... Petitioner

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Rajesh P. Khobragaede, Advocate for the Petitioner.

Mrs. M.P. Thakur, AGP for the Respondent - State.

Mr. Trinity Rebello i/b Ms. Eventa A. Gonsalves, Advocate for Respondent No.7.

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 20th AUGUST 2022

PC. :

1. We have heard the learned counsel for the Petitioner. According to the learned Advocate, the proceedings before the Small Causes Court are not tenable at all. There is no structure on the land still the Small Causes Court was entertaining the suit.

2. The learned counsel submits that a Co-operative Society is also formed.

3. It is the case of the Respondent that structure still stands.

4. In the present Writ Petition, we cannot certainly enter into the disputed questions of fact. The suit is pending before the Small Causes Court. The Petitioner has a remedy to file application before the

Small Causes Court regarding jurisdiction, tenability which application certainly the Court would decide on its own merits. The Petitioner can challenge the order passed by the Small Causes Court before the appropriate forum.

5. In view of the above, we are not inclined to consider the matter on merits. Writ Petition is disposed of with aforesaid observations. All contentions of parties are kept open. No costs.

(MADHAV J. JAMDAR, J)

(S.V. GANGAPURWALA, J)