

K.S. Jadhav

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

WRIT PETITION NO. 10638 OF 2022

State Bank of India

...Petitioner

Versus

VIFOR Enterprise

...Respondent

Ms. Mamta Sadh a/w Mr. Ravi Goenka & Mr. Pranil Pawar i/b
Goenka Law Associates, Advocates for the Petitioner.

Mr. Ajit C. Tamhane a/w Mr. Rohan Tamhane i/b Tamhane &
Co., Advocates for the Respondent.

CORAM : R.I. CHAGLA, J.

DATE : 2nd December, 2022.

ORDER :

1. Heard learned Counsel appearing for the Petitioner. She has contended that the notice of the mesne profit was not properly served on the Petitioner / Defendant and the Petitioner / Defendant could not proceed in the proceeding for determination of the mesne profits. She states on instructions of Mr. Hemant Kumar, Law Officer of the Petitioner that the Petitioners undertake to deposit in the Court of Small Causes an

amount of Rs.60 Lakhs, pending the determination of the mesne profits by the Small Causes Court after hearing the Petitioner. The statement is accepted.

2. The impugned Judgment and Order dated 25th November 2021 is set aside subject to the Petitioners depositing an amount of Rs.60 Lakhs with the Small Causes Court within a period of four weeks from today.

3. The Small Causes Court shall consider the application of the Respondent / Original Plaintiff after giving opportunity to the Petitioners / Defendants to participate and be heard on the Application of mesne profits and thereafter pass an appropriate order.

4. The Small Causes Court shall endeavour to dispose of the Application of mesne profits within a period of three months.

5. The Writ Petition is accordingly disposed of.

[R.I. CHAGLA, J.]