

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

WRIT PETITION NO.13455 OF 2022

Mr. Hemant Ramanlal Merai

...Petitioner

Versus

Harbhajan Singh B. Ajimal

...Respondent

....

Mr. Ranjeev Carvalho a/w. Dikshak Soni i/by Mohanish Ghatge,
for the Petitioner.

Respondent-in-person present.

....

CORAM : NITIN W. SAMBRE, J.

DATED : 16th NOVEMBER, 2022

P.C.:

1. Heard.

2. The order impugned dated 28th September, 2022 passed by the Appellate Bench of the Small Causes Court whereby the respondent is permitted to withdraw the amount of rent which is under challenge on the ground that:

- (a) The petitioner's appeal is pending consideration and
- (b) That an issue of the subject matter of the appeal is covered under the provisions of Maharashtra Slum Act is under consideration.

3. As far as aforesaid both the issues are concerned, the Appellate Court has recorded a finding that the issue of the suit

property being covered under the Maharashtra Slum Act was never raised before the Trial Court and it is first time sought to be canvassed in the appeal and rejected the objection of the petitioner. As far as said findings are concerned, I hardly see any error in recording such findings.

4. Apart from above, the withdrawal of the amount is always be subject to final outcome of the appeal and that being so no error could be noticed in writ petition. The petition stands dismissed.

(NITIN W. SAMBRE, J.)