

Dusane

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

SECOND APPEAL NO.765 OF 2022

Smt. Hussenbi Mohammad Yamin ...Appellant
Ansari-Nanhe

V/s.

Vijay Mahadev Rajguru & Ors. ...Respondents

Ms. Rekha Musale i/by Aadil M. Khan for Appellant.

CORAM: MADHAV J. JAMDAR, J.
DATE: 30th NOVEMBER, 2022

P.C.:

- 1.** Advocate Ms. Rekha Musale appearing for Appellant at the outset states that the Second Appeal has been wrongly filed and the proper remedy is Civil Revision Application. She further states that there is extreme urgency as the possession decree is likely to be executed as possession warrant has been issued.
- 2.** Perusal of the impugned judgments and decrees show that the suit has been filed for eviction *inter alia* on the ground of bonafide requirement and nuisance, as per the provisions of Maharashtra Rent Control Act, 1999 and eviction decree has been passed. Thus, this Second Appeal is totally misconceived

and same is allowed to be withdrawn with liberty to adopt appropriate proceedings and seek appropriate reliefs.

3. For enabling the Appellant to adopt appropriate proceedings and seek appropriate reliefs including interim reliefs, the operation and execution of the judgment and the decree dated 5th August 2022 passed by the learned District Judge- 3, Pune in Regular Civil Appeal No.299 of 2016 confirming the judgment and decree dated 28th January 2016 passed by the learned 2nd Additional Judge, Small Causes Court & Joint Civil Judge, Senior Division, Pune in Civil Suit No. 560 of 2008 is stayed for a period of 10 days.

4. Subject to above, the Second Appeal is allowed to be withdrawn and disposed of.

(MADHAV J. JAMDAR, J.)

BHALCHANDRA
GOPAL DUSANE

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BHALCHANDRA
GOPAL DUSANE
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