

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

WRIT PETITION NO. 12502 OF 2019

Manohar Keshav Kadam ...Petitioner

V/s.

Mrs. Liya Rodriques and Anr. ...Respondents

Mr. D. Y. Chitnis a/w. Ms. Sonali Dalvi a/w. Mr. Abhilesh Chitre
i/b. Deepak Chitnis – Chiparikar & Co., for the petitioner.

Mr. Sanjeev Sawant a/w. Mr. C. N. Chavan, for the Respondent
No.2.

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CORAM : G. A. SANAP, J.

DATE : 22 April 2022

P.C.

. Heard the learned Advocate for the petitioner and the
learned Advocate for the respondent No.2.

2. The respondent No.2 is the sole appellant before the Bench
of the Appellate Court. The order impugned in this writ petition
is dated 15 October 2019. Perusal of this order would show that
the Appellate Bench of the Small Causes Court has not decided
any point or issue by this order. Para No.4 of the order would
show that some statements which are made before the Bench of

the Small Causes Court are unparliamentary on the part of the Advocate and the same have been taken on record.

3. Saved and except this, the order does not indicate that any issue or point was finally decided as such. I am of the opinion that this writ petition against the order which has not decided any point will not be maintainable.

4. The learned Advocate for the petitioner submits that the respondent No.2 is delaying the hearing of the appeal.

5. The learned Advocate for the respondent No.2 submits that being an appellant, he cannot be prevented from taking recourse to the available legal remedy.

6. The learned Advocate for the petitioner submits that as per the decree impugned in the appeal, the petitioner has been declared as a tenant of the premises and the trial Court has ordered the respondent No.2 herein to hand over the possession of the premises to the petitioner. The learned Advocate for the petitioner submits that the petitioner is 70 years old. He has right to apply for expeditious hearing of the appeal. The learned Advocate submits that the petitioner is suffering from number of ailments. The petitioner has been denied the fruits of the decree. The learned Advocate therefore seeks direction for expeditious hearing of the appeal.

7. The learned Advocate for the respondent No.2, who is a appellant before the Small Causes Court, submits that the respondent No.2 has no objection for having expeditious hearing of the appeal. However, he submits that the precedence shall not be granted to the matter of the appellant before the matter of other senior citizens, similarly situated.

8. On going through the record and particularly the order dated 16 February 2019 passed below Exh.7, in Appeal No.256/2018, it would be just and proper to expedite the hearing of the appeal. In view of the peculiar facts and circumstances, I conclude that this writ petition is not maintainable. The writ petition is accordingly dismissed. In the peculiar facts and circumstances, the Appellate Bench of the Small Causes Court is requested to hear the appeal filed by the respondent No.2 bearing No.256/2018 expeditiously and decide it within four months from today.

(G. A. SANAP, J.)