



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

WRIT PETITION NO. 10042 OF 2022

Mrs. Farida Aresh Irani & Ors.

..Petitioner/s

v/s.

Mr. Afzal Abdul Sattar & Ors.

..Respondents

Mr. Prateek Pansare a/w. Ms. Kalyani Deshmukh i/b. FZB & Associates
for the Petitioner/s.

Mr. M. Soman a/w. Mr. Ganesh Ambekar for the Respondent No.8 i/b.
MDP & Partners for the Respondent No.8.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 6th OCTOBER, 2023.**

P.C.

1. The petitioner herein challenged order dated 22.06.2022, whereby the learned Judge dismissed the application to adjourn the suit sine de or to allow him to withdraw the suit with liberty to file fresh suit.
2. Heard learned Counsel for the petitioner and learned Counsel for the respondent.
3. The applicant landlord has filed a suit in the year 1982 for eviction, inter alia on the ground of alteration and waste etc. Subsequently, the plaintiff filed another suit in the year 2008 on the ground of bonafide user and that the tenant has alternative accomodation. The previous suit filed in the year 1982 was decreed on 19.08.2015. It is stated that the petitioner-landlord obtained possession

in respect of the suit premises in February 2016. The respondent tenants have challenged the eviction decree and it is stated that the appeals are pending before the Appellate Bench of the Small Causes Court.

4. The petitioner filed application before the trial court to adjourn the suit No.650/1142/2008 sine die and or to allow him to withdraw the suit with liberty to file fresh suit mainly in view of the pendency of the appeal before the Appellate Bench. It may be mentioned that the suit of the year 2008 was filed entirely on different ground and has no nexus with the previous suit. The learned Judge has observed that the petitioner has not made out any grounds for withdrawal of the suit with liberty to file fresh suit as per Order 23 Rule 1 sub rule 3 of CPC. It is also brought to my notice that by order dated 10.08.2023, this Court had already directed the Appellate Bench of the Small Causes Court to dispose of the appeals expeditiously, within a period of six months.

5. The suit is of the year 2008, there is no justification to keep the suit pending sine die and or to allow the petitioner to withdraw the suit with liberty to file fresh suit. The petition is devoid of merits and is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)