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

WRIT PETITION NO.8155 OF 2021

Hitesh Babulal Doshi

...Petitioner

V/s.

Smt. Amrataben VasANJI Mohta

...Respondent

Mr. Khan Javed Akhtar, for the Petitioner.

Ms. Panthi Desai i/b M. P. Vashi & Associates, for the Respondent.

CORAM : MADHAV J. JAMDAR, J.

DATE : 6th JANUARY, 2023

P.C.:

1. Heard Mr. Khan Javed Akhtar, learned counsel appearing for the Petitioner and Ms. Panthi Desai, learned counsel appearing for the Respondent.

2. The impugned order in the present Writ Petition is order dated 13th November, 2021 passed below Exh.82 in Appeal No.376 of 2007 in R.A.E. & R. Suit No.373/627 of 2000. By the impugned order, the said Exh.82 Application filed by the present Petitioner i.e. Respondent-Plaintiff was rejected. In the Exh.82 Application, it is the contention of the Petitioner that, the suit for eviction has been decreed and in execution one Mr. Raju Wadilal Shah obstructed the

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execution and the said Obstruction Notice was made absolute by order dated 4th October, 2007 and the Petitioner has obtained possession of suit property. It is the contention of the Petitioner that, the Appeal be not heard on merits and Appeal be dismissed.

3. The suit has been filed against the Defendant i.e. the Respondent on the ground of arrears of rent. The suit has been decreed and the said decree has been challenged in the Appeal. As far as obstructionist proceedings are concerned, they are totally different than the merits of the eviction suit. Therefore, there is no legality or perversity in the impugned order, by which, the said Exh. 82 Application is rejected with cost.

4. The impugned order is challenged in this Writ Petition filed under Article 227 of the Constitution of India. The scope of the interference by this Court by exercise of jurisdiction under Article 227 is very narrow. The Hon'ble Supreme Court in the matter between *Jai Singh and Ors. vs. Municipal Corporation of Delhi and Anr.*¹, has considered the scope of this Court's power under Article 227 of the Constitution of India in the following manner. The relevant paragraphs 15

1. 2010(9) SCC 385

and 16 are reproduced herein-below :

“15. We have anxiously considered the submissions of the learned counsel. Before we consider the factual and legal issues involved herein, we may notice certain well recognized principles governing the exercise of jurisdiction by the High Court under [Article 227](#) of the Constitution of India. Undoubtedly the High Court, under this Article, has the jurisdiction to ensure that all subordinate courts as well as statutory or quasi judicial tribunals, exercise the powers vested in them, within the bounds of their authority. The High Court has the power and the jurisdiction to ensure that they act in accordance with well established principles of law. The High Court is vested with the powers of superintendence and/or judicial revision, even in matters where no revision or appeal lies to the High Court. The jurisdiction under this Article is, in some ways, wider than the power and jurisdiction under [Article 226](#) of the Constitution of India. It is, however, well to remember the well known adage that **greater the power, greater the care and caution in exercise thereof**. The High Court is, therefore, **expected to exercise such wide powers with great care, caution and circumspection**. The exercise of jurisdiction must be within the well recognized constraints. It can

not be exercised like a 'bull in a china shop', to correct all errors of judgment of a court, or tribunal, acting within the limits of its jurisdiction. This correctional jurisdiction can be exercised in cases where orders have been passed in grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice.

16. The High Court cannot lightly or liberally act as an appellate court and re-appreciate the evidence. Generally, it can not substitute its own conclusions for the conclusions reached by the courts below or the statutory/quasi judicial tribunals. The power to re-appreciate evidence would only be justified in rare and exceptional situations where grave injustice would be done unless the High Court interferes. The exercise of such discretionary power would depend on the peculiar facts of each case, with the sole objective of ensuring that there is no miscarriage of justice."

(Emphasis added)

5. The learned counsel appearing for the Petitioner failed to point out any jurisdictional error. Thus, there is no reason to interfere in the impugned order. The Writ Petition is dismissed however, with no order as to costs.

(MADHAV J. JAMDAR, J.)