

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

WRIT PETITION NO.12492 OF 2023

Spice and Grains Overseas Pvt. Ltd. ... Petitioner
Versus
Mumbai metropolitan Region Development
Authority ... Respondent

...

Mr. Atul Damle, Sr. Advocate a/w. Mr. Ashutosh Gole, Mr. Nikhil Waje
for Petitioner.

Mr. Akshay Shinde, for Respondent.

...

CORAM: SANDEEP V. MARNE, J.

DATE : 13 OCTOBER 2023.

P. C.:

Mr. Damle, the learned senior advocate appearing for Petitioner would submit that the Petitioner has not challenged the eviction order dated 28 November 2018 in his appeal filed before the Principal Judge. He would therefore submit that Petitioner may be granted liberty to withdraw the Miscellaneous Appeal Lodging No.465 of 2023 with liberty to file fresh Appeal challenging the order dated 28 November 2018.

2. Mr. Shinde, the learned counsel appearing for Respondent-MMRDA would submit that the order dated 28 November 2018 has already attained finality and no longer survives and that therefore the question of filing fresh Appeal does not arise. This is something which

the City Civil Court would decide and no opinion is expressed on the objection raised by Mr. Shinde.

3. With a view to enable Petitioner to raise challenge to the eviction order dated 28 November 2018 Petitioner is permitted to withdraw Miscellaneous Appeal Lodging No.465 of 2023 filed before the City Civil Court. It would be at liberty to file a fresh Appeal challenging *inter alia* order dated 28 November 2018. The Petitioner would also be at liberty to file an application for condonation of delay in filing such fresh Appeal, which shall be decided by the City Civil Court without being influenced by the order dated 08 August 2022. All the contentions of the parties on merits are kept open. Since the Miscellaneous Appeal Lodging No.465 of 2023 is being withdrawn, Mr. Damle would make a request for withdrawal of the present petition. Writ Petition is accordingly disposed of as withdrawn.

SANDEEP V. MARNE, J.

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