



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7879 OF 2023

Jayesh Dharamdas Jhaveri

.....Petitioner

Vs.

Smt. Nirmala Dharmadas
Jhaveri and another

.....Respondents

Mr. Amit Sale for the petitioner
Mr. Vimal Sanghavi for respondent no. 1

CORAM : GAURI GODSE, J.

DATE : 8th JANUARY 2024.

P.C.

1. Heard.
2. This petition takes exception to the order dated 18th April 2023 passed on an application filed by the petitioner to modify the earlier order passed by the Tribunal on the ground that respondent no. 1 is not occupying the disputed premises.
3. The Judgment and Order passed by the Tribunal is confirmed by

this Court by Order dated 17th December 2021 in Writ Petition No. 6916 of 2021.

4. An interim application was filed by the Petitioner seeking similar relief for modifying the earlier order dated 17th December 2021 and permitting him to occupy the disputed flat. The said application was disposed of on 16th February 2023 by granting liberty to the petitioner to take out appropriate proceedings as available to him in law.

5. By the order impugned in this petition the application filed by the petitioner before the Tribunal seeking modification of the earlier order and permitting him to occupy the disputed flat is rejected on the ground that there is no provision under the Act for modification. Hence, the application is dismissed by the impugned order.

6. Learned counsel for the petitioner is unable to point out any provision under the Act which permits the Tribunal to modify its earlier order.

7. By order dated 16th February 2023, the petitioner is already granted liberty to take out appropriate proceedings as available to him

in law.

8. I do not find any illegality or infirmity in the impugned order. The petition is devoid of any merit. Hence, the petition is dismissed.

9. Needless to record that it is open to the petitioner to adopt appropriate proceedings as permissible in law as already observed by this Court vide order dated 16th February 2023.

[GAURI GODSE, J.]