

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6751 OF 2023

Mohammed Ali Mumtaz Ali Sayyed **Petitioner**

VERSUS

Moin Ilias Khatik & Anr. **Respondents**

Ms.Chaitali Bhogle i/b. Mr.Vivekanand Krishnan for the
Petitioner.

Ms.Rukhmini Khairnar i/b. Mr.Pramod N.Joshi for the
Respondents.

CORAM: RAJESH S. PATIL, J.

DATE : 22 FEBRUARY, 2024

P.C. :-

This writ petition challenges the impugned order dated 28 April, 2023 passed by the District Judge in a Regular Civil Appeal No. 48 of 2023, thereby rejecting the application Ex.13.

2. By an application Ex.13, the petitioner (original plaintiff) had sought to continue a status quo order.

3. It is the case of the original defendant that after the decree

was passed by the Trial Court, the same was executed. However, the original plaintiff by force has entered into the suit premises and is holding over the suit premises. She further submits that her client has already filed a criminal case for trespass against the original plaintiff.

4. The appeal against the original decree is pending before the District Court at Nashik.

5. She also further submitted that her client intend to file an application based on the judgment of Supreme Court in case of *Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.* reported in *(2005) 1 SCC 705*.

6. Heard both the sides. Suffice will be the purpose if the hearing of the Regular Civil Appeal No. 48 of 2023 is expedited.

7. The present writ petition is disposed of with following

directions :-

(i) The hearing of the Regular Civil Appeal No. 48 of 2023 is expedited.

(ii) The District Judge at Nashik will make an endeavour to dispose of the Regular Civil Appeal No. 48 of 2023 as early as possible and in any case within a period of six months from today.

(iii) The status quo granted by this Court on 9 June, 2023 in Writ Petition No. 6751 of 2023 is further extended till the hearing and final disposal of the Regular Civil Appeal No. 48 of 2023.

(iv) The respondents are at liberty to file an application if they so desire as per the ratio laid down by the Supreme Court in case of *Atma Ram Properties (P) Ltd.* (supra) in Regular Civil Appeal No. 48 of 2023.

(v) The said application if preferred by the original defendant, to be decided on its own merits after giving an opportunity to the original plaintiff to file its reply and he be heard while deciding the said application.

(vi) All contentions of the parties are kept open.

[RAJESH S. PATIL, J.]