

Ajay

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

WRIT PETITION NO. 933 OF 2024

Afsar Ali Sajjad Shah

.. Petitioner

Versus

Shera Ali Sajjad Ali Shah

.. Respondent

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- Mr. R.R. Varma a/w. Mr. Sanket Thorat and Mr. Sachin Suware, Advocates for Petitioner.
 - Mr. Manish Kisan Mazgaonkar a/w. Mr. Ankit R. Upadhyay, Advocate for Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 05, 2024.

P.C.:

1. Heard Mr. Varma, learned Advocate for Petitioner and MR. Mazgaonkar, learned Advocate for Respondent.

2. The present Writ Petition takes exception to the common order dated 05.01.2023 passed by the learned Trial Court in Application filed below Exhibit “7” and Exhibit “27” by the Plaintiff seeking an order under Order XXXIX Rule 1 and 2 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908 (for short “**CPC**”) and the order dated 31.10.2023 passed in Misc. Civil Appeal No.33 of 2023 upholding the said order.

3. After hearing Mr. Varma and Mr. Mazgaonkar at length and perusing the pleadings and record of the case, I have expressed my

mind to Mr. Mazgaonkar and in that view of the matter, he would submit that he would take appropriate instructions from original Defendant, namely Shera Ali Sajjad Ali Shah who is the brother of original Plaintiff Afsar Ali Sajjad Shah as to whether he is ready and willing to hand over Flat No.204 being the Suit flat to the original Plaintiff.

4. Hence, he requested this Court to defer passing of any order in the present Writ Petition. Adhering to the request of Mr. Mazgaonkar, Writ Petition is adjourned to next Friday on which date, this Court shall after hearing Mr. Mazgaonkar pass appropriate orders in the present Writ Petition.

5. Needless to state that Respondent i.e. Shera Ali Sajjad Ali Shah is directed to take cognizance of the substantive order passed by this Court on 11.03.2024.

6. Stand over to **12th April, 2024 at 02:30 p.m.**

[MILIND N. JADHAV, J.]