

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

WRIT PETITION NO.11135 OF 2024

Vasant Bhagwandas Presswala

....Petitioner

V/S

Harsha Anil Malhotra & Ors.

....Respondents

Mr. V.S. Tadke i/b Mr. Jagannath S. Pawar *for the Petitioner.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 14 AUGUST 2024.**

P.C.:

1 The challenge in the present Petition is to the order dated 19 March 2022 passed by Appellate Bench of Small Causes Court by which the Appeal filed by the Plaintiff has been allowed and temporary injunction has been granted in favour of the Plaintiff thereby restraining Defendants from dispossessing the Plaintiff from suit premises without following due process of law. Defendant Nos.3 and 4 are directed to enter in Agreement with the Plaintiff for Permanent Alternate Accommodation keeping open the question of tenancy in respect of the suit premises. Defendant Nos.3 and 4 are also directed to pay compensation in respect of Temporary Alternate Accommodation to the Plaintiff.

2 This Court has consistently taken a view that when an occupant is required to vacate the premises which are taken up for redevelopment, the Agreement for Permanent Alternate Accommodation must be executed with the occupant and the transit rent is also required to be paid to the occupant.

Mere pendency of dispute between the occupant and other claimants in respect of the premises in question does not mean that the occupant who is required to vacate the premises can be deprived of the occupancy rights. In cases where there are disputes with regard to the title/rights in respect of the premises, execution of PAAA in favour of the occupant is always subject to the final adjudication of such dispute. In the present case as well there is a dispute between Plaintiff and Defendant Nos.1 and 2 with regard to tenancy rights in respect of the premises in question. Till decision of such claims, redevelopment of the property cannot be held up. There is no dispute to the position that Plaintiff continues to possession of the premises as of today. Therefore the Appellate Bench has rightly directed execution of PAAA in the name of Plaintiff for time being with further direction for payment of transit rent to her. This arrangement is necessary because as of today Plaintiff is occupying the premises. If in the event it is found that the Plaintiff's claim of tenancy in respect of the suit premises is not valid or that Defendant Nos.1 and 2 are also entitled to claim tenancy rights in respect of the premises, mere execution of PAAA in the name of Plaintiff would not make her an owner in respect of such alternate accommodation. The arrangement is only of temporary nature till the suit is decided. The rights and entitlement of parties in respect of the suit premises or in respect of the Permanent Alternate Accommodation would obviously be decided by the Court at the time of final decision of suit. In my view, therefore, there is no error committed by the Appellate Bench in passing the impugned order dated 19 March 2022. Writ Petition is accordingly **rejected**.