

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

CIVIL REVISION APPLICATION NO.453 OF 2024

Manohar Sakharam Panchal

...Applicant

V/s.

Smt. Vithabai Kashinath Gaikar

(deceased deleted)

1(a) Dushyant Kashinath Gaikar

(since deceased through his heirs and

legal representatives-1(a)(i) and 1(a)

(ii).

1(a)(i) Mrs. Swati Dushyant Gaikar

and Ors.

...Respondents

Mr. Abhijeet Kulkarni *with Mr. Raghvendra Kulkarni for the Applicant.*

Mr. P.A. Sarwankar *for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

Dated : 15 October 2024.

P.C. :

1) Motion is made for speaking to the minutes of order dated 8 October 2024.

2) In paragraph 1, line No.2, the date '21 March 2004' be substituted with the date '21 March 2024'.

3) So also, following observations were made in paragraph 6 of the order dated 8 October 2024:-

6) ... Though the suit is held to be not maintainable, the same does not prevent Plaintiff from securing permission under Section 22 from the Competent Authority for institution of fresh suit. Therefore, if and when the Plaintiff secures permission of Competent Authority and institutes a fresh suit, he would be in a position to raise all possible grounds for seeking eviction of the Defendants from the suit premises and findings recorded by the Small causes Court and its Appellate Bench in various orders passed in R.A.E. & R. Suit No.835/1412 of 2000 shall come in the way of Plaintiff in prosecuting and Defendants in defending such suit.

4) It is pointed out by Mr. Kulkarni, the learned counsel appearing for the Applicant that since the declaration of slum has already been set aside by the Slums Tribunal by order dated 5 March 2014, there is no question of the Plaintiff securing permission under Section 22 of the Maharashtra Slums Act from the Competent Authority for institution of fresh Suit. In that view of the matter, the above observations made in paragraph 6 of the order dated 8 October 2024 be replaced as under:-

“6. ...Though the Suit is held to be not maintainable, same shall not prevent the Plaintiff from filing the fresh suit on all possible grounds for seeking eviction of the Defendants from the suit premises and findings recorded by the Small Causes Court and its Appellate Bench in various orders passed in R.A.E. & R. Suit No.834/1412 of 2000 shall not come in the way of Plaintiff in prosecuting and Defendants in defending the said Suit.

5) The order dated 8 October 2024 be corrected and read accordingly.

[SANDEEP V. MARNE, J.]