



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**WRIT PETITION ST. 3449 OF 2024
WITH
INTERIM APPLICATION NO. 10002 OF 2024
IN
WRIT PETITION ST. 3449 OF 2024**

SATYAWAN MADHUKAR LABDE

..PETITIONER

VS.

VASANT GOVIND TILAK (DELETED
SINCE DECD) THR. LHR & ANR.

..RESPONDENTS

Mr. K. L. Vyas i/b. Mr. Karan K. Vyas for Petitioner.

Ms. Leena Temkar i/b. Mr. Deepak Jamsandekar for Respondents.

CORAM : RAJESH S. PATIL, J.

DATE : JULY 24, 2025.

P.C. :

1. This writ petition challenges concurrent findings recorded by the trial Court and the Appellate Court of the Small Causes, Mumbai.

2. Suit for eviction was filed only on one ground i.e. additions and alterations. It is the case of the plaintiff-landlord that the tenant had demolished a wall between two rooms of the tenanted premises and had also constructed a W.C. in the open space to the suit premises. The suit premises is on a building consisting of ground plus

two floors. The suit premises is in ground floor. It is the case of the defendant/tenant that at a time when he came into possession of the suit premises, there was already a W.C. attached to the suit premises. So also, there was no wall between the two rooms as alleged. On the said ground of addition and alteration, both the Courts have passed decree of eviction.

3. The tenant admittedly is a senior citizen, aged 77 years. The suit premises is a residential premises. According to me, after going through both the judgments and after hearing the parties, and considering the fact that eviction decree is passed only on one ground i.e. addition and alteration.

4. In the judgment of *Sukhlal Gagnani vs Harish Suvarni* reported in (1998) 5 BOM CR 266. So also, in the case of *Venkatlal Pittie vs Bright Brothers* reported in (1987) 3 SCC 558, it was held that the landlord has to prove because of alteration in the suit premises, damage has been caused to the tenanted premises.

5. In my view, a case is made out to admit present writ petition.

6. Rule.

7. Ms.Temkar, learned Advocate, waives rule notice on behalf of the respondents.

8. Soft copy of R & P be sent by the Small Causes Court to the High Court within 4 weeks from today. Original R & P should be preserved by the Small Causes Court till further orders of this Court. Original R & P to be sent to the High Court when called for.

9. Printing dispensed with.

10. In the meanwhile, there will be ad-interim relief in terms of prayer clause (b). The said prayer clause (b) reads as under:-

“b) that pending the hearing and final disposal of the Petition this Hon’ble Court be pleased to stay the effect, implementation, execution and operations of the Impugned Judgement and Decree dated 30th October 2023 (“being Exhibit ‘A’ hereto”) passed in Appeal No. 28 of 2018 passed by the Ld. Appellate Court of Small Causes at Mumbai, Bandra and also to stay the Impugned Judgement and Decree dated 21st December 2017 (“being Exhibit ‘B’ hereto”) passed in R.A.E. Suit No. 640 of 1994 passed by the Ld. Trial Court of Small Causes at Mumbai, Bandra.”

11. The hearing of the writ petition is expedited.

(Rajesh S. Patil, J.)