
(2013) 09 SC CK 0132

In the Supreme Court Of India

Case No : Civil Appeal No. 5103 of 2006

Maruti Raghunath Kadam (D) by L.Rs.

APPELLANT

Vs

Chellaram Jethanand Madhrani and Others

RESPONDENT

Date of Decision : 30-09-2013

Acts Referred:

Citation : (2013) 09 SC CK 0132

Hon'ble Judges : Jasti Chelameswar, J;H.L. Gokhale, J

Bench : Division Bench

Advocate : Shivaji M. Jadhav, for the Appellant; Naresh Kumar, for the Respondent

Final Decision : Allowed

Judgement

1. Heard Mr. Jadhav, learned Counsel in support of this appeal and Mr. Navare, learned Counsel appearing for the Respondents.

2. The Appellant had filed a suit for eviction of the licensee in the Court of Small Causes in Mumbai. After obtaining a decree when the Appellant went for execution of the decree, Respondent Nos. 1 and 2, who were found in possession of the suit premises, caused obstruction, and therefore an obstructionist notice was taken out. That obstructionist notice was made absolute by the Small Causes Court but the High Court has taken the view that such a proceeding would not lie in the Court of Small Causes. That view has been overturned by this Court in Civil Appeal Nos. 6726-6727 of 2013: Prabhudas Damodar Kotecha and Ors. v. Manhabala Jeram Damodar and Anr., decided on 13th August, 2013. In view thereof, the High Court was clearly in error in taking the view that such a proceeding would not lie in the Court of Small Causes. Therefore, this appeal is allowed and the impugned judgment and order passed by the High Court stands set aside. We may record that the Appellants have already taken possession of the suit premises in the execution proceeding. This appeal is disposed of accordingly.