

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10658 OF 2013

REKHA GURUNATH MHASHEKAR

Appellant(s)

VERSUS

YASHWANT VICHARE

Respondent(s)

WITH

CIVIL APPEAL NO. 10720 OF 2013

J U D G M E N T

KURIAN, J.

1. The appellant filed a summary suit for eviction in the year 2006, being RAE & R Suit No. 277/459 of 2006, on the file of the Small Causes Court, Mumbai. That suit was decreed ex-parte by Judgment dated 14.03.2007. According to the appellant, even the execution has been carried out. While so, the respondent filed an application under Order IX Rule 13 CPC. That was allowed by order dated 06.05.2009. The appellate court of the Small Causes Court, by order dated 09.12.2012 affirmed the order passed by the trial court. The appellant was unsuccessful before the High Court.

2. During the pendency of the appeals before this Court, we are informed that the Court of Small Causes tried the suit afresh. The suit was decreed. That

was affirmed by the Appellate Bench of the Small Causes Court. According to the respondent, he proposes to challenge the same before the High Court .

3. In view of the above facts and circumstances of the case, we make it clear that none of the observations and findings made in the impugned orders shall stand in the way of the respondent pursuing his remedy before the High Court in accordance with law.

4. We make it further clear that the possession, which has already been restored to the appellant, shall continue with her, of course, subject to any final orders that may be passed by the High Court in the challenge proposed to be made by the respondent.

5. In view of the above, the appeals are disposed of.

.....J.  
[ KURIAN JOSEPH ]

.....J.  
[ SANJAY KISHAN KAUL ]

New Delhi;  
September 19, 2018.